

(1996) 06 MAD CK 0030
In the Madras High Court
Case No : H.C.P. No. 90 of 1996

Alagu	Vs	APPELLANT
State of Tamil Nadu and another		RESPONDENT

Date of Decision : 27-06-1996

Acts Referred:

Citation : (1997) CriLJ 512

Hon'ble Judges : Y. Venkatachalam, J; Janarthanam, J

Bench : Division Bench

Advocate : V. Parthiban, for the Appellant; P. Venkata Subramanian, Assistant Public Prosecutor, for the Respondent

Judgement

Janarthanam, J.—One Alagu (Petitioner) is the detenu. The detenu, it is said, is a bootlegger. Apart from the ground case, the occurrence

relating to which is said to have happened on 22-11-1995, he had come to adverse notice in four other cases.

2. The Commissioner Police, Madurai City (Second respondent) clamped upon the detenu, the impugned order of detention, under the relevant

provisions of Tamil Nadu Act 14 of 1982, in his proceedings No. 118/BDFGIS/95, dated 11-12-1995 with a view to preventing him from acting

in any manner prejudicial to the maintenance of public order and health.

3. Mr. V. Parthiban, learned counsel appearing for the petitioner, would press into service the lone and sole ground, namely, the second

respondent-detaining authority took extraneous materials into consideration for clamping, the impugned order of detention on the detenu, which is

getting reflected in paragraph 3 of the grounds of detention, and on this short ground alone, he would say, the impugned order of detention is liable

to be set aside.

4. Mr. P. Venkatasubramanian, learned Additional Public Prosecutor in charge would, however, repel such a submission and produce the relevant file for perusal and consideration of this Court.

5. The grounds of detention furnished to the detenu is in Tamil and the relevant portion of paragraph 3 of the grounds of detention reads as under :

6. From what has been extracted as above, it is rather crystal clear that the second respondent-detaining authority relied upon a material to the

effect that one Dr. P. Thiagarajan, Professor of Forensic Medicine, Madurai Medical College, Madurai had issued a certificate stating that one

Thangavelu exhibited certain symptoms as a consequence of consumption of arrack containing 1.7 mg. of atropine sulphate.

7. It is the contention of learned counsel appearing for the petitioner that there is no material at all for making such an averment. He would refer to

the certificate issued by the Forensic doctor, a copy of which is available at page 25 of the booklet of the documents furnished to the detenu. A

cursory perusal of the certificate so available would reveal that the said doctor did not at all examine Thangavelu but expressed his opinion, and

what all he has stated therein was that the sponsoring authority by his letter dated 3-12-1995 requested the said doctor to express his opinion with

regard to two hypothetical questions as relatable to the symptoms to be exhibited by consuming arrack containing 1.7 mg. of a atropine sulphate.

In such circumstances, it goes without saying that the second respondent-detaining authority took extraneous materials into consideration in

incorporating the averment, as extracted above in paragraph 3 of the grounds of detention. On this short ground alone, as rightly contended by

learned counsel for the petitioner, the impugned order of detention is liable to be set aside.

8. In fine, the H.C.P. is allowed. The impugned order of detention, is set aside. The detenu is ordered to be set at liberty forthwith, unless and until

he is required to be detained in connection with any other cause or case.

9. Petition allowed.