

(2003) 09 MAD CK 0041
In the Madras High Court
Case No : H.C.P No. 2641 of 2002

Anil Kumar

APPELLANT

Vs

State

RESPONDENT

Date of Decision : 29-09-2003

Acts Referred:

Constitution of India, 1950 — Article 226
Penal Code, 1860 (IPC) — Section 379, 457
Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders,
Goondas, Immoral Traffic Offenders and Slum-Grabbers, Act, 1982 — Section 3(1)

Citation : (2003) 09 MAD CK 0041

Hon'ble Judges : V.S. Sirpurkar, J;Ar. Ramalingam, J

Bench : Division Bench

Advocate : S. Seshchalam, for the Appellant; A. Navaneetha Krishnan, Assistant Public Prosecutor, for the Respondent

Final Decision : Allowed

Judgement

V.S. Sirpurkar, J.—The challenge in this petition is to the order dated 25.11.2002 passed by the Commissioner of Police, Greater Chennai,

branding one Anil Kumar, son of Joseph as a goonda and directing his preventive detention u/s 3(1) of the Tamil Nadu prevention of dangerous

activities of Bootleggers, Drug offenders, Forest offenders, Goondas, Immoral Traffic offenders and Slum grabbers Act, 1982 (Tamil Nadu Act

14 of 1982).

2. This detenu is shown to have been involved in three cases. They are under Sections 380, 379 and 457 r/w 380 I.P.C. Ultimately, he is said to

have been involved in an incident dated 29.10.2002. at about 5.30 p.m. when he is said to have gone to the cold-drink shop of one Tr..Murugesan

and demanded Rs. 200/- to take brandy by uttering: ""gpuhe;jp Fof;f ntz;Lk;

the maintenance of public order. This ground is enough to quash the order of detention made by the respondents.

5. Learned Additional Public Prosecutor tries to point out before us that the present was a case where one incident itself was sufficient to disturb the public peace and public order. A reliance is made on the judgment reported in 2000 SCC (Cri) 708 (HASAN KHAN IBNE HAIDER KHAN -vs- R.H.MENDONCA).

6. However we do not find anything similar in the above mentioned case. There, while considering the difference between the public order and the law and order, the Court took into consideration that the appellant therein was a notorious goonda of the locality and with his associates moved about armed with deadly weapons and collected money from the residents and assaulted those who refused to pay. There is nothing of the sort alleged against the present detenu. In that view, the judgment reported in Darpan Kumar Sharma @ Dharban Kumar Sharma Vs. State of Tamil Nadu and Others, must apply on all fours to the present case. On this count alone, it is held that the single incident, on which the detaining authority has relied upon was not enough to disturb the public order and therefore, it could not be relied upon for ordering preventive detention. The petition succeeds.

7. The Habeas Corpus Petition is allowed. The order of detention dated 25.11.2002 is set aside. The detenu Anil Kumar, son of Joseph is directed to be released forthwith unless he is required in connection with any other case.