
(2014) 03 MAD CK 0043
In the Madras High Court
Case No : H.C.P. No. 2034 of 2013

C. Nagaraj

APPELLANT

Vs

State of Tamil Nadu and Another

RESPONDENT

Date of Decision : 11-03-2014

Acts Referred:

Information Technology Act, 2000 — Section 67
Penal Code, 1860 (IPC) — Section 149, 294(b), 341, 366(A), 376
Protection of Children from Sexual Offences Act, 2012 — Section 4, 8

Citation : (2014) 1 LW(Cri) 639 : (2014) 2 MLJ(Cri) 200

Hon'ble Judges : V. Dhanapalan, J;G. Chockalingam, J

Bench : Division Bench

Final Decision : Allowed

Judgement

V. Dhanapalan, J.—The petitioner is the father of the detenu and challenge is made to the order of detention dated 28.08.2013 made in C3.D.O. No. 79/2013, passed by the second respondent under which the detenu has been branded as a "Goonda" and detained under The Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug- Offenders, Forest-offenders, Goondas, Immoral Traffic Offenders, Sand offenders, Slum-Grabbers and Video Pirates Act, 1982 (hereinafter referred to as Tamil Nadu Act 14 of 1982). As per the grounds of detention dated 28.08.2013, the detenu came to the adverse notice in the following cases:

2. In para 3 of the grounds of detention, it is stated that the detenu is also involved in the commission of the offence, which took place on 10.06.2013 at 13.00 hours, which led to the registration of a case by Inspector of Police, Gudiyatham Town Police Station, in Crime No. 506 of 2013 for the offences under Sections 341, 294(b), 392,427, 506(ii) I.P.C. It is further stated that the detenu was arrested on 30.06.2013 and produced before the Judicial Magistrate, Gudiyatham on the same day and remanded to judicial custody. The detaining authority, on being satisfied upon the materials placed before him that the

activities of the detenu are prejudicial to the maintenance of public order, clamped the order of detention. Challenging the said order, petitioner is before this Court by way of this habeas corpus petition.

3. Amidst several grounds raised including the ground that the co-accused has already been released, learned counsel for the petitioner mainly focussed his argument on the ground that there is variation in the translated version of the remand order from that of the English version. Therefore, the subjective satisfaction arrived by the detaining authority is not well founded.

4. We have heard the learned Additional Public Prosecutor appearing for the respondents on the above submission and perused the material documents available on record.

5. For appreciating the contentions raised by the learned counsel for the petitioner, para 5 of the grounds of detention is extracted below:

5. I am aware that Thiru. Saranraj was produced before the Judicial Magistrate, Gudiyatham on 30.06.2013 in Gudiyatham Town Police Station ground case Cr. No. 506/2013 for offences under Sections 341, 294(b), 392, 427, 506(ii) IPC, adverse cases Cr. No. 08/2013 for the offence under Sections 376, 366(A), 506(ii) IPC, 4, 8 of Protection of Children Sexual Offences Act and Sec. 67 of Information Technology Act and was remanded to judicial custody and lodged at Central Prison, Vellore as remand prisoner till 12.07.2013. Further his remand period was extended till 04.09.2013.

6. From a reading of the above, it is clear that the remand order dated 30.06.2013 has been relied on by the detaining authority and if so, it is necessary that the detenu should be furnished with the copy of the remand order not only in English version but also in the language known to him so as to enable him to make effective representation for redressal of his grievance before the appropriate forum. In the English version of the remand order dated 30.06.2013 found at Page No. 64 of the booklet, it is stated thus:

Accused A1-A5 in the margin produced. Grounds of arrest explained. No injuries reported. No complaint against police. Remand request made for offences U/s. 376, 366(A), 506(ii) I.P.C. and 4, 8 of Protection of Children from sexual harassment Act & 67 of IT Act. There is prima facie case material available that the Accused 1-5 are having common object in counting (sic. committing) the offence. Hence A1-A5 remanded U/s. 376, 366(A), 506(ii) IPC & 4, 8 of Prevention of Children from Sexual Offences Act and 67 of I.T. Act r/w S.149 IPC A1-A5 remanded to judicial custody till 12/7/2013 A2 to be kept in TN Borstal School.

whereas, in the vernacular version at Page No. 65, it is stated as under:

Since there is variation in the translated version of the remand order in respect of words in English version "No injuries reported. No complaint against Police" and the same has been relied on by the detaining authority for clamping the

order of detention, the detenu was prevented from making effective representation. Therefore, on this sole ground, the impugned order of detention is liable to be quashed.

In the result, this habeas corpus petition is allowed and the impugned detention order made in C3.D.O. No. 79/2013 dated 28.08.2013, is set aside. The detenu - Saranraj, S/o. Nagaraj, is directed to be set at liberty forthwith, unless his custody is required in connection with any other case.