
(1990) 07 MAD CK 0040
In the Madras High Court
Case No : Writ Petition No. 14560 of 1989

C. Shanmugam

APPELLANT

Vs

Govt. of Tamil Nadu and another

RESPONDENT

Date of Decision : 26-07-1990

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1992) CriLJ 905

Hon'ble Judges : K. Swamidurai, J; Bellie, J

Bench : Division Bench

Advocate : M. Dharmavinayagam, for the Appellant; G. Krishnamoorthy, Assistant Public Prosecutor, for the Respondent

Judgement

Bellie, J.—The petitioner Shanmugam has been detained under 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, 1983 (Tamil Nadu Act 14 of

1982) with a view to preventing him from acting in any manner prejudicial to the maintenance of public order.

2. The petitioner has filed this petition under Article 226 of the Constitution challenging the said order of detention. In the affidavit filed in support

of the petition the petitioner has raised several grounds. During arguments the learned counsel for the petitioner mainly argued two points viz., (i)

there has been inordinate delay in considering his representation; (ii) as per S. 3(2) of the Act the order of detention can be passed in the first time

for three months and thereafter if the detention is to be continued there must be fresh order of detention from time to time, but no such order has

been passed and therefore the continued detention is illegal.

3. We, find the first point itself is strong enough to dispose of this matter and therefore it is not necessary to consider the second point. As regards

the first point, according to the petitioner, the representation was made on 20-9-1989 and it had been rejected only on 26-12-1989 which means

that the detaining authority has taken as long a period of 96 days to consider the representation. As regards this, though no counter has been filed,

the learned public prosecutor brought to our notice from the records of the file that the representation was given to the Jail Superintendent on 20-

9-1989, Government received it on 25-9-1989 and the Government sent it for parawar remarks to the second respondent on 26-9-1989 and the

parawar remark was sent on 18-12-1989 and it was received by the first respondent on 20-12-1989, it was placed before the Under Secretary

on 21-12-1989 and it was placed before the Secretary on 22-12-1989, then it was placed before the Minister of Law who rejected on 24-12-

1989 and the order was communicated to the detenu on 26-12-1989. We find from the dates given by the Public Prosecutor that the second

respondent has taken inordinately a long time for sending the parawar remark i.e., from 26-9-1989 to 18-12-1989 i.e., 82 days. As regards this

the learned Public Prosecutor would submit that unfortunately the Collector who passed the detention order died and for posting another Collector

it took some time and this was the reason for the delay in sending the parawar remark, but we do not think that this can hardly be a reason in the

matter of detentions under the said Act. Matters relating to detentions must be dealt with utmost expedition and therefore the reason given by the

learned Public Prosecutor cannot be accepted at all. This inordinate delay in our view vitiates the detention order and therefore the continued

detention of the petitioner is illegal. Thus considering we allow the petition and order that the petitioner be released forthwith.

4. Petition allowed.