
(2007) 12 MAD CK 0155
In the Madras High Court
Case No : H.C.P. No. 987 of 2007

Deva @ Devendran

APPELLANT

Vs

The Secretary to Government of Tamilnadu, Prohibition and
Excise Department and The Commissioner of Police

RESPONDENT

Date of Decision : 04-12-2007

Acts Referred:

Penal Code, 1860 (IPC) — Section 302, 377, 379, 506(2)
Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders,
Goondas, Immoral Traffic Offenders and Slum-Grabbers, Act, 1982 — Section 3(1)

Citation : (2007) 12 MAD CK 0155

Hon'ble Judges : R. Regupathi, J;P.D. Dinakaran, J

Bench : Division Bench

Advocate : N. Selvarajan, for the Appellant; N.R. Elango, Assistant Public
Prosecutor, for the Respondent

Final Decision : Allowed

Judgement

P.D. Dinakaran, J.—The second respondent herein clamped an order of detention as against the petitioner/detenu, as the said authority

arrived at the subjective satisfaction that the said detenu is a Goonda and he has to be detained u/s 3(1) of the Tamil Nadu Prevention of

Dangerous Activities of Bootleggers, Drug Offenders, Forest Officers, Goondas, Immoral Traffic Offenders, Sand Offenders, Slum Grabbers and

Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982).

2.1. The order of detention dated 26.4.2007 was passed on the basis of ground case in Crime No. 150 of 2007 for alleged commission of

offences under Sections 302, 377 and 506(2) IPC, complaint of which was lodged by one Kumar. According to Kumar, on 16.3.2007 his son left

for Thirumangalam and did not return home and on the next day, viz., on

17.3.2007, on information from relatives, he found his son murdered by somebody. Based on the statement of Kumar, a case was registered and the detenu was apprehended.

2.2. Apart from the above, the detaining authority also took note of the one adverse case pending against the detenu, viz., Crime No. 604 of 2001

registered on the file of Aminjikarai Police Station for the offence punishable u/s 379 of IPC with reference to the occurrence said to have taken

place on 9.6.2001.

2.3. The detaining authority, having satisfied that the detenu is indulging in activities which are prejudicial to maintenance of public order, passed the impugned order.

3. Challenging the said detention, the detenu has come forward with the present Habeas Corpus Petition seeking a writ of habeas corpus to call for

the records of the second respondent in Memo No. 177/BDFGISSV/2007, dated 26.4.2007, to quash the same and to thereby direct the

respondents to produce him, now confined at Central Prison-II, Puzhal, Chennai before this Court and to set him at liberty.

4. The learned Counsel for the petitioner assailed the order of detention on the ground of non-application of mind. He submits that there is no

proximity between the adverse case, which was registered for offence u/s 379 I.P.C. said to have taken place on 9.6.2001 and the ground case,

which was registered for the offence under Sections 302, 377 and 506(2) IPC for the occurrence said to have taken place on 16.3.2007.

5. We have heard the learned Additional Public Prosecutor and also perused the documents available on record.

In the case on hand, the adverse case relates to the offence punishable u/s 379 IPC with reference to an occurrence said to have taken place on

9.6.2001, whereas the ground case relates to the offence punishable under Sections 302, 377 and 506(2) IPC with reference to an occurrence

said to have taken place on 16.3.2007.

6. It is well settled law that a solitary instance as mentioned in the grounds of detention is not relevant for sustaining the order of detention for the

purpose of preventing the petitioner from acting in a manner prejudicial to the maintenance of public order. In the instant case, there is no proximity

in between the ground case and the adverse cases and the link between the

prejudicial activities and the order of detention, thus, got snapped

away. The order of detention is therefore, liable to be set aside on the ground of non-application of mind.

7. For the reasons aforesaid, this petition is allowed and the detention order dated 26.4.2007 is set aside. The detenu is directed to be set at

liberty forthwith unless his custody is required in connection with any other case.