

(1945) 06 MAD CK 0001
In the Madras High Court

In Re: S.S. Vasan alias T.S. Srinivasan

Date of Decision : 26-06-1945

Acts Referred:

Newsprint Control Order, 1941 — Clause 3(6)

Citation : AIR 1945 Mad 441 : (1945) 58 LW 359 : (1945) 2 MLJ 128

Hon'ble Judges : Clark, J

Bench : Division Bench

Judgement

Clark, J.—The petitioner is the proprietor and editor of Anandavikatan, a Tamil weekly. He has been prosecuted and convicted under Rule

81(4) of the Defence of India Rules read with Clause 3 (6) of the Newsprint Control Order of 1941. The case for the prosecution was that the

petitioner had used paper other than newsprint for the production of an annual supplement to Anandavikatan issued by him at Deepavali in the year

1944.

2. Sub-clauses 1 to 5 of Clause 3 of the Newsprint Control Order, 1941, impose restrictions on the sale and purchase of newsprint. It is only to

be sold to and purchased by proprietors of newspapers. Sub-clause (5) prohibits the proprietor of a newspaper or of a newspaper press from

using newsprint for any purpose other than the printing of newspapers. Sub-clause (6) prohibits the proprietor of a newspaper from using in the

printing of his newspaper any kind of paper other than newsprint.

3. Sub-clauses (5) and (6) are as follows:

(5) No proprietor of a newspaper or of a newspaper press shall use newsprint for any purpose other than the printing of newspapers except under

an Open General Permit issued by the Central Government or under a permit in Form II granted by the Central Government or by an Officer

authorised by the Central Government in this behalf.

Explanation.--In this sub-clause " newspaper" includes any supplement or annual edition of a newspaper, but does not include a poster.

(6) No proprietor of a newspaper to whom a permit to purchase or to use newsprint has been issued shall use in the printing of the newspaper any kind of paper other than newsprint except with the permission in writing of the Central Government.

4. The whole question at issue in this prosecution is whether the supplement issued by the petitioner at Deepavali in 1944 is properly to be

regarded as a " newspaper " for the purpose of Sub-clause (6) of Clause 3 of the Order. On behalf of the Government it is urged that " newspaper

ordinarily includes a supplement and that the explanation to Sub-clause (5) must be regarded as having been inserted ex abundanti cautela. On

this view, the meaning to be given to the word " newspaper " in Sub-clause (6) and Sub-clause (5) is the same. Further, reference is made to the

definition of " newspaper " in Section 1 of the press and Registration of Books Act, Act XXV of 1867. Reference is also made to the definition of

newspaper " in the Newspaper Control Order, 1944. I do not consider that either of these definitions of " newspaper " would ordinarily include a

supplement. Whether it would be included under the definition in the Act of 1867 depends on whether the supplement contains public news or

comments on public news. The supplement in this case was issued on the occasion of an annual festival, and whilst it may well have contained

comments on the news for the past year, I do not consider that it could ordinarily be regarded as " newspaper " on that account.

5. As regards the definition in the Newspaper Control Order, 1944, it is, I think, quite clear that the supplement in the present case could not fall

within that definition. Admittedly, as is shown by Exs. I and II in this case, the petitioner before publishing the supplement addressed the

Government stating his intention to issue the supplement printed on "glaze paper, real and imitation art paper," and asking that he might be

permitted to exceed his quota of 30 per cent, of the normal amount of paper used. That application was refused. I may state here that it is not

suggested before me that the petitioner in issuing this supplement exceeded the 30 per cent, quota allowed to him. This quota is in respect of paper

other than newsprint. But these facts make it quite clear that the supplement was not intended to be a "" newspaper "" within the definition of that

term in the Newspaper Control Order, 1944, for it was not a "" periodical publication printed on newsprint.

6. Accordingly I am unable to accept the contention that the expression "" newspaper "" is to be regarded ordinarily as including a supplement. The

question then arises whether it can properly be, regarded as having that meaning under Sub-clause (6) of Clause 3 of the Order of 1941. If it can,

then the petitioner was properly convicted for having used paper other than newsprint for the purpose of producing his supplement. If it cannot,

then his conviction must necessarily fall. It has been pointed out that Sub-clause (6) was added in 1944, that is, three years after the issue of the

Order. On this fact being pointed out, I asked whether it was suggested that the failure to add an explanation to Sub-clause (6) like that following

Sub-clause (5) was a mistake; but this suggestion was not accepted. Clearly it could not be accepted by the Government if they wish to succeed in

this appeal. It has many times been laid down that the Court will not supply even an obvious omission if to do so would render an accused person

liable to conviction.--Maxwell on Interpretation of Statutes, Eighth edition, page 239.

7. It seems clear to me that the addition of the explanation to Sub-clause (5) and the omission of that explanation to Sub-clause (6) are both

intelligible and proper. As I have earlier stated, Sub-clause (5) prohibits the proprietor of a newspaper or of a newspaper press from using

newsprint for purposes other than the production of newspaper. It is significant that the prohibition operates against the proprietor both of a

newspaper and of a newspaper press. The proprietor of a newspaper press as such does not appear to be entitled to obtain newsprint. It is only

the proprietor of a newspaper who can obtain newsprint but he may in many cases hand it over to the proprietor of a newspaper press for the

purpose of printing, and both are brought within the prohibition of Sub-clause (5). It must have appeared to those framing this order and its

subsequent amendments that it might in some cases be convenient to print the supplement to a newspaper on newsprint. On that account it would

necessarily have been unsuitable to prohibit the person concerned from using newsprint for the purpose of printing a supplement. In my view the

explanation to Sub-clause (5) is by way of exception or extension to meet that possibility. The need for such exception or extension is obviously

not present in Sub-clause (6) which imposes a prohibition on the use of any other paper than newsprint for the production of newspaper. As I have

said, it may well be that newsprint might be used for a supplement but equally it might not be. It might in many cases be convenient and desirable--

as it would appear to have been the case here--to produce an annual supplement on paper other than newsprint, for example art paper or glaze

paper. That being so, the explanation would necessarily be unsuitable in connection with Sub-clause (6).

8. For these reasons, I am satisfied that there has been no offence committed by the petitioner and that his conviction cannot stand. Accordingly

the conviction will be quashed and the fine paid will be returned to the petitioner. The petition is accordingly allowed.