

(2006) 01 MAD CK 0088
In the Madras High Court
Case No : HCP. No. 1032 of 2005

Kasambu

APPELLANT

Vs

State

RESPONDENT

Date of Decision : 23-01-2006

Acts Referred:

Citation : (2006) 01 MAD CK 0088

Hon'ble Judges : P. Sathasivam, J; N. Paul Vasanthakumar, J

Bench : Division Bench

Advocate : N. Mohideen Basha, for the Appellant; M.K. Subramanian, Government Advocate, for the Respondent

Final Decision : Dismissed

Judgement

P. Sathasivam, J.—Maternal aunt of one Marimuthu, who is detained as ""Drug Offender"" as contemplated under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Slum Grabbers and Video

Pirates Act, 1982 (Tamil Nadu Act 14 of 1982), by the impugned detention order dated 29.06.2005, challenges the same in this Petition.

2. Heard learned counsel for the petitioner and learned Government Advocate for the respondents.

3. Learned counsel for the petitioner, after taking us through the grounds of detention and all other connected materials, has raised the following contentions:-

(a) Inasmuch as the Detaining Authority failed to supply vital/ relied upon documents, the ultimate order passed by him cannot be sustained.

(b) In view of wrong translation, particularly, reference to the Central Act as

""Tamil Nadu Narcotic Drugs and Psychotropic Substance Act, 1985""", the detention order is liable to be quashed on the ground of non-application of mind.

4. Learned Government Advocate appearing for the respondents met all the contentions raised by the counsel for the petitioner by placing relevant materials.

5. Coming to the first contention, learned counsel for the petitioner, by drawing our attention to page Nos.49 and 51 of the Booklet supplied to the

detenu, would contend that a reading of the remand order in English and Tamil version makes it clear that they are not similar, particularly, the

Tamil version of the remand order shows as if only one accused was remanded by order of the Magistrate dated 29.05.20 05, whereas, the

remand report refers two accused, viz., Marimuthu and Ramalakshmi, and also mentions two Crime Numbers, i.e., Cr. Nos.393 and 394 of 2005

on the file of Kovilpatti Police Station.

6. We verified both the documents available at page Nos.49 and 51 of the Booklet. It is true that a reading of the Tamil version of the remand

order gives an impression as if only one accused was produced before the learned Magistrate, though the Remand Report refers names of two

accused and shows two Crime Numbers. Inasmuch as we are concerned with one of the accused, viz., Marimuthu, who is detained by the

impugned proceedings, on going through the materials available on record, we are of the view that though the Tamil version does not convey the

entire statement found in the English version, this aspect has not affected the detenu in making effective representation. Further, it is not the case of

the detenu that he is not one of the persons mentioned in the Remand Report as found in page No.49 of the Booklet. Accordingly, we reject the

said contention.

7. Coming to the other contention that consent letter being mandatory, in the absence of any information that the same was placed before the

Detaining Authority, the ultimate order passed by him cannot be sustained, learned Government Advocate has brought to our notice that even in

the First Information Report, there is a specific reference regarding the consent given by both the accused. This aspect is clear from the document

available at page No.39 of the Booklet. In such circumstances, we reject this

contention also.

8. By drawing our attention to paragraph No.3 of the grounds of detention (English version), learned counsel for the petitioner would point out that

inasmuch as the Detaining Authority has referred the Central Act (Narcotic Drugs and Psychotropic Substances Act, 1985) wrongly as ""Tamil

Nadu Narcotic drugs and Psychotropic Substance Act, 1985"", the same evidences the non-application of mind on the part of the Authority.

In this regard, it is relevant to refer that in the Tamil version of the grounds of detention, the description of the Act has been correctly given. The

same is not in dispute. In such circumstances, merely because in one place, the Detaining Authority has referred the Central Act as ""Tamil Nadu

Narcotic Drugs and Psychotropic Substance Act, 1985"", it cannot be construed that the Authority has not applied his mind.

9. In the light of what is stated above, We do not find any valid ground for interference. Consequently, the Habeas Corpus Petition fails and the

same is dismissed.