

(1999) 08 MAD CK 0025
In the Madras High Court
Case No : H.C.P. No. 505 of 1999

M. Balakrishnan

APPELLANT

Vs

State of Tamilnadu

RESPONDENT

Date of Decision : 19-08-1999

Acts Referred:

National Security Act, 1980 — Section 3(2)
Penal Code, 1860 (IPC) — Section 147, 148, 302

Citation : (1999) 2 LW(Cri) 782

Hon'ble Judges : V.S. Sirpurkar, J; V. Kanagaraj, J

Bench : Division Bench

Advocate : S. Shanmugavelayutham, for the Appellant; G.M. Syed Fasiuddin, Assistant Public Prosecutor, for Respondents 1 to 3 and S. Gomathinayagam, Addl. Central Govt. Standing Counsel, for Respondent-4, for the Respondent

Final Decision : Allowed

Judgement

V.S. Sirpurkar, J.—The Order passed by the District Magistrate, and District Collector, Virudhunagar, dated 15-3-1999 under the

provisions of Section 3(2) of the National Security Act, 1980, directing the detention of Murugan alias Palanimurugan, son of Muthusamy, is in

challenge in the present Petition.

2. It is stated in the Grounds that the said detenu has come to the adverse notice of the concerned authority in two cases in Crime No. 31/99 and

Crime No. 32/99 both being for the offences u/s 302 IPC. On the basis of these two adverse cases, it is suggested that because of the gory

incidents in those cases, the general public was put to alarm and there was a disturbance in the public order. It was for this reason that it was

thought fit to detain the detenu under the provisions of the National Security Act with an idea to preventing him from acting prejudicial to the

maintenance of public order.

3. The learned Counsel for the petitioner Mr. Shanmugavelayutham has restricted himself to only one point. According to the learned Counsel, it is

specifically stated in the Grounds that the detenu was on remand on the date when the order was passed i.e., on 15-3-1999, though there is no

material on record. It is obvious that the Detaining Authority has acted on some extraneous material in coming to this conclusion. The learned

Counsel also took us to the affidavit of the Sponsoring Authority. In the Sponsoring Authority's affidavit, it is mentioned that the said detenu was

produced before the Judicial Magistrate Court No. III, Srivilliputhur on 12-2-1999 and was remanded to Judicial Custody and lodged at Central

Prison, Trichy and subsequently, the remand period was extended up to 16-3-1999. It is also reiterated in that affidavit that the necessary

documents to support this contention were enclosed. The learned Counsel points out that there are no such documents enclosed which would

suggest that the said Murugan was in remand on the date when the order was passed and that his remand as ordered by the Court was extended

up to 16-3-1999. With the help of the learned Public Prosecutor, we tried to go through the whole paper book and even then we are unable to

find out from the papers supplied any such document which would suggest that the detenu was on remand on 15-3-1999 and that his remand was

extended up to 16-3-1999. It is obvious that the Sponsoring Authority was making a reference to a document on page 76 of the paper book

which speaks about the remand of the prisoners having been extended on 2.3.1999 up to 16-3-1999, but unfortunately, the same document,

though relates to Crime No. 31/99 pertaining to the offences under Sections 147, 148 and 302 I.P.C., the remand paper is in respect of Murugan,

son of Pulukandi of Sundararajapuram, who is not the present detenu. No remand paper regarding the present detenu is filed on the record and

has been supplied to the Detaining Authority by the Sponsoring Authority. It is, therefore, obvious that the inference drawn by the Detaining

Authority that the present detenu viz., Murugan alias Palanimurugan was on remand on 15-3-1999 and that his remand was extended up to 16-3-

1999 is without any basis. It is further obvious that for this, the Detaining Authority has relied on the document at page 76 which is thoroughly an

unconnected document with the present detention and more particularly the present detenu. Therefore, it is obvious that the Detaining Authority has relied on the extraneous materials which were not germane to the issue of the detention of the present detenu. The detention order must be set aside because of this gross non-application of mind on the part of the Detaining Authority as also for his having taken into consideration the extraneous materials.

4. The Habeas Corpus Petition thus succeeds, the order of detention is set aside and the detenu is directed to be released forthwith, unless he is required in any other matter by any other authority.