
(2003) 11 MAD CK 0040
In the Madras High Court
Case No : H.C.P. No. 920 of 2003

M. Perumal

APPELLANT

Vs

The State of Tamil Nadu

RESPONDENT

Date of Decision : 18-11-2003

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2003) 11 MAD CK 0040

Hon'ble Judges : T.V. Masilamani, J;P.K. Misra, J

Bench : Division Bench

Advocate : A.K.S. Thahir, for the Appellant; M.K. Subramanian Govt. Advocate (Crl. side), for the Respondent

Final Decision : Allowed

Judgement

T.V. Masilamani, J.—The petition is filed by the uncle of the detenu challenging the detention order passed against the detenu by the District

Magistrate and District Collector, Thiruvannamali dated 23.4.2003.

2. The second respondent passed the impugned order of detention against the detenu treating him as a BOOTLEGGER by virtue of the powers

conferred u/s 3(1) of the Tamil Nadu Prevention of Dangerous Activities of Bootlegger, Drug Offenders, Forest Offenders, Goondas, Immoral

Traffic Offenders, and Slum Grabbers Act 1982 (Tamil Nadu Act 14 of 1982) read with G.O.Ms.No.75, Prohibition & Excise Department dated

18.4.2003 passed u/s 3(2) of the said Act.

3. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Criminal side) appearing for the respondents and

perused the records of the case.

4. Though several contentions have been raised in the grounds, the petitioner has mainly relied upon the variation between the English version and the Tamil version of the grounds of detention so as to fortify his contention that he was confused of such variation in the grounds of detention and therefore it is urged on behalf of the petitioner that he could not make proper and effective representation to the respondents. In this connection, the learned counsel for the petitioner has drawn our attention to ground Nos.4 and 5 of the grounds of detention both in English and Tamil to show that the material variation between the versions caused serious prejudice to the detenu and he was handicapped in presenting effective and proper representation before the concerned authorities.

The relevant portion in ground No.4 in the order of detention in English runs as follows:-

From the above materials, I am satisfied that Thiru Ganesan is a "Bootlegger" Distillating and selling ID arrack mixed with poisonous substance in contravention of the provisions of the Tamil Nadu Prohibition Act, 1937.

On the contrary, the Tamil version of the said ground is as follows:-

nkny Twg;gl;ltw;wpypUe;J jpU/fnzrd; vd;gtu; xU fs;sr;rhuhaf;fhuhf. nghija{l;Lk; er;Rg;bghUisf; fye;j fs;sr;rhuhaj;ij 1937k; Mz;L jkpH;ehL kJtpyf;F rl;l;j;jpd; gpupt[fSf;F vjpuhd tifapy; tpw;W te;Js;shu;/

Therefore, it is evident that in the Tamil version of the grounds of detention, the allegation that the detenu was distilling ID arrack is not adumbrated

and therefore, the learned counsel for the petitioner has argued and in our rightly that such variation goes to the root of the matter.

5. In this connection, the learned counsel for the petitioner has relied on the decision Vijay Kumar Dharna alias Koka Vs. Union of India and

others, and the unreported decision of a Division Bench of this Court in H.C.P.No.6 of 2000 dated 27.7.2000 in support of such contention. On a

careful consideration of the materials on record in the light of the ratio laid down in the said decisions, we are of the considered view that in view of

the variations between the English and the Tamil versions of the documents furnished to the detenu, he has been prejudiced and therefore, he is

unable to make effective and proper representation of his case before the respondents. It follows necessarily that the order of detention passed by

the second respondent has to be quashed on this ground alone.

6. In the result, the Habeas Corpus Petition is allowed. The impugned order of detention is quashed and the detenu is directed to be set at liberty forthwith unless he is required in connection with any other case.