
(2002) 10 MAD CK 0114
In the Madras High Court
Case No : H.C.P. No. 1937 of 2002

Philomena

APPELLANT

Vs

The Commissioner of Police and State

RESPONDENT

Date of Decision : 08-10-2002

Acts Referred:

Citation : (2002) 10 MAD CK 0114

Hon'ble Judges : N. Dhinakar, J;A. Packiaraj, J

Bench : Division Bench

Advocate : N. Ananda Kumar, for the Appellant; A. Navaneetha Krishnan, Addl. PP., for the Respondent

Judgement

A. Packiaraj, J.—The petitioner is the mother of the detenu and she challenges the order of detention dated 11.05.2002 passed by the first respondent under the provisions of Tamil Nadu Act 14 of 1982, detaining him, after he was identified as a "Bootlegger", since he had come to the adverse notice of the authorities and on 06.05.2002, he acted in a manner prejudicial to the maintenance of public health and that if he is let to remain at large, he will indulge in such further activities and that therefore, there is a compelling necessity to detain him.

2. We do not propose to extract the entire details of the grounds of detention, since both the sides have agreed that the petition is to be considered only on the following short ground.

3. The learned counsel for the petitioner would submit that in the representation dated 02.08.2002 sent to the Government, a mention has been made only about as to how a false case has been foisted against the detenu and that he has not committed any offence. That at no point of time, in the representation, a request was made to the Government to furnish with any documents. In such circumstances, the detenu was surprised to receive a communication rejecting the representation, mentioning that the documents which he requires had

already been furnished to him. Therefore, the learned counsel submits that the representation, in effect, has not been considered but on merits has been mechanically dismissed and the Government has passed an order, which runs contrary to the representation sent by the petitioner.

4. In support of the contention advanced above, the learned counsel would rely on a decision of this Honourable Court in Parvathi Vs. State rep. by the District Collector cum District Magistrate, Perambalur District, Perambalur and Others. 2000 (1) MWN (Cri.)282, which also pertains to a case wherein the representation has been sent by the detenu mentioning about the false case and at no point of time, he has requested the Government to furnish with the documents, but the Government by way of reply, while rejecting the representation has stated that the documents asked for by the detenu has already been supplied. While deciding the said issue His Lordship Justice V.Sirpurkar has held as follows:

".. the answer given cannot be linked with the point raised in the representation that the relatives of the detenu were not intimidated. At the most, the State Government could have given the date of such intimation of notice or it could have denied the allegation by suggesting that the intimation was in fact given. To reply such a point raised by saying that the necessary documents have already been supplied to the detenu would be really a travesty. We cannot brook the same. It is, therefore, clear that the representation has been dealt with in a cavalier and a casual fashion without adverting to the point raised."

We are of the view that the said decision applies in all fours to the facts and circumstances of the case on hand and consequently, we hold that the representation has not been duly considered at all. In the above circumstances, the order of detention gets vitiated and accordingly, deserves to be set aside.

In the result, the HCP is allowed. The detenu is directed to be set at liberty forthwith unless he is required in connection with any other cases.