

(1999) 09 MAD CK 0044
In the Madras High Court
Case No : H.C.P. No. 302 of 1999

Rangaswamy

APPELLANT

Vs

The District Magistrate and District Collector of Karur District,
Karur and another

RESPONDENT

Date of Decision : 22-09-1999

Acts Referred:

Constitution of India, 1950 — Article 22(5)

Citation : (2000) 1 CTC 18

Hon'ble Judges : S. Jagadeesan, J;A. Raman, J

Bench : Division Bench

Advocate : Mr. S. Xavier Felix, for the Appellant; Mr. R. Shanmugasundaram,
Public Prosecutor, for the Respondent

Judgement

Judgment pronounced by S. Jagadeesan, J.—The husband of the detenu has filed this Habeas Corpus Petition challenging the order of

detention of his wife. Tmt. Valarmathi as a Bootlegger under the Tamil Nadu Act 11 of 1982. The order of detention was passed by the District

Collector and the District Magistrate of Karur District, the first respondent herein on 31.1.1999. The detenu is having three adverse cases all of

which are under the prohibition. The ground case said to have taken place on 6.1.1999 is also an offence under the prohibition Act. Hence, the

order of detention has been passed. Even though the learned counsel for the petitioner raised several grounds, we are of the opinion that the

ground is enough for the disposal of the petition. Hence, we feel it is unnecessary to narrate the facts in detail, since the same had been given in the

grounds of detention.

2. By his representation dated 24.2.1999, the petitioner has asked for a clean

copy of the First Information Report which forms part of the typed

set at page 19 relating to the ground case on the ground that the copy furnished in the booklet is totally illegible and the petitioner as well as the

detenu are not able to make out anything. Since the same has not been furnished, the order of detention is vitiated.

3. In order to satisfy ourselves we also perused the copy of the First Information Report at page 19 of the booklet. The hand-written portion in the

said page is totally illegible and nothing could be made out. When an illegible copy of the First Information Report had been furnished and the

petitioner having sought for the clean copy, it is the bounden duty of the State to furnish the legible copy of the First Information Report. The failure

to do so will amount to denial of an opportunity to the detenu to make an effective representation.

4. Even though the learned Public Prosecutor represented that the particulars in the First Information Report have been restated in the remand

report as well as in the history of the case which also forms part of the typed set, we are of the opinion that the same cannot be accepted. The

detenu is entitled to know as to whether the correct facts have been given in the remand report as well as in the history of the case and for that, the

legible copy of the First Information Report is necessary to make verification of the true or the correct version. Hence, we are of the opinion that

failure to furnish the legible copy of the First Information Report in spite of the request of the petitioner will amount to the denial of opportunity to

the detenu to make an effective representation which has been guaranteed under Article 22(5) of the Constitution of India. On this ground, the

impugned order of detention is liable to be set aside and accordingly, the order of detention is set aside.

5. Habeas Corpus Petition is allowed. The detenu is directed to be released forthwith unless her presence is necessary in connection with any other

case.