
(2009) 07 MAD CK 0197
In the Madras High Court
Case No : HCP No. 351 of 2009

S. Saravanan

APPELLANT

Vs

State of Tamil Nadu

RESPONDENT

Date of Decision : 08-07-2009

Acts Referred:

Essential Commodities Act, 1955 — Section 7(1)
Penal Code, 1860 (IPC) — Section 420
Prevention of Black-marketing and Maintenance of Supplies of Essential Commodities Act, 1980 — Section 3(1)
Tamil Nadu Scheduled Commodities (Regulation of Distribution by Card System) Order, 1982 — Section 6(2)(3)

Citation : (2009) 07 MAD CK 0197

Hon'ble Judges : M. Chockalingam, J;C.S. Karnan, J

Bench : Division Bench

Advocate : C. Ram Kumar, for the Appellant; N.R. Elango, Additional Public Prosecutor for RR1 and 2, for the Respondent

Final Decision : Allowed

Judgement

M. Chockalingam, J.—Seeking a writ of habeas corpus one Mr. Saravanan, the son of the detenu Sami Durai, has brought forth this petition

challenging the order of detention made by the second respondent in C3/D.O./14/2009 dated 7.3.2009 terming him as a Black Marketeer.

2. The Court heard the learned Counsel for the petitioner and looked into all the materials available including the order under challenge.

3. It is not in controversy that the second respondent, the District Collector and District Magistrate of Cuddalore District, has passed an order of

detention on 7.3.2009, terming the petitioner's father as a Black Marketeer since his activities were prejudicial to the maintenance of public

supplies of Essential Commodities to the public and it would cause revenue loss,

and hence there arose compelling necessity to detain him u/s 3(1) of the Prevention of Black Marketing and Maintenance of Supplies of Essential Commodities Act, 1980 in order to prevent him from acting in any manner prejudicial to the maintenance of public supplies of essential commodities to the public in future and hence the order came to be passed.

4. A perusal of the materials would indicate that on 10.2.2009 at about 2000 hours, the Sub Inspector of Police, CSCID, Cuddalore, on receipt

of a complaint about the grave irregularities found in a Cooperative Saravanabava Fair Price Shop situated at Thittagudi Taluk in Eraiyur Sugar

Mill compound, made an inspection, and it was found that in the "A" Register maintained in the shop, pages were stealthily printed and added in

the last portion, and after further check and verification over all the ration cards belonging to the said fair price shop with the aid of computer, it

was detected that the said "A" Register wrongly contained entries of huge family ration cards which were not belonging to the said Eraiyur

Saravanabava Cooperative Fair Price Shop, but those ration cards were actually allotted to the fair price shop situated at various Taluks other than

Tittagudi Taluk in the District. Apart from that, "A" Register contained the necessary ration card numbers, but it was criminally planned that instead

of giving original names, some other fictitious names were being entered in the register. Further, it was found that in respect of the supplies of

essential commodities alone, the revenue loss per month was Rs. 21,362.40 and the total loss for the whole three years would be Rs. 7,69,046/-.

Equally, it was also found that the present Sales Assistant namely the detenu was employed in the said fair price shop from 1.1.2009. On the basis

of the report given by Taluk Supplies Officer, Thittagudi, a case was registered by CSCID, Cuddalore, in Crime No. 41/2009 u/s 6(2)(3) of

TNSC (RDCS) Order 1982 r/w 7(i)(a)(ii) of E.C. Act 1955 and 420 of IPC, and the necessary investigation was taken up. Thus the

recommendation was made.

5. On perusal and scrutiny of the entire materials available, the detaining authority was satisfied that the activities of the detenu were prejudicial to

the maintenance of public supplies of essential commodities to the public, and hence in order to prevent him from doing any such activities in future,

he has got to be detained under the enactment by terming him as a black

marketeer. Accordingly the order came to be passed.

6. Assailing the order under challenge, the learned Counsel would submit that when the detention order was served upon the detenu, a copy of the

translated version in Tamil was also served upon him; that a comparison would clearly indicate that paragraph 6 as found in the Tamil version is

actually a new introduction since it is not found in the English version; that under the circumstances, it did not enable the detenu to understand the

contents of the original order that was made by the detaining authority and therefore, the order is infirm and it has got to be set aside.

7. The Court heard the learned Additional Public Prosecutor on the above contentions and paid its anxious consideration on the submissions made.

8. As seen above, the order challenge came to be passed against one Sami Durai branding him as a black marketeer as referred to above. The

Court after perusal of the entire materials available, is of the considered opinion that the order under challenge has got to be set aside for the simple

reason that as rightly pointed out by the learned Counsel, paragraph 6 as found in the Tamil version is not found in the original order which is in

English. Thus it would be quite clear that paragraph 6 of the order in Tamil version, though it is claimed to be a translated version of the English

form, was an introduction. Needless to say that Tamil version is to be prepared and served upon the detenu in order to enable him to understand

the contents of the original order. In the instant case, such an introduction of paragraph 6 in the Tamil version which was not available in the English

version, would not have enabled the detenu to understand the original order. It can even be stated that it would have caused confusion rather. This

Court is of the view that on this ground the impugned order is liable to be set aside.

9. Accordingly, this habeas corpus petition is allowed setting aside the order of the first respondent. The detenu is directed to be set at liberty

forthwith unless his presence is required in connection with any other case.