

(2000) 04 MAD CK 0001
In the Madras High Court
Case No : H.C.P. No. 156 of 2000

Sentnil Kumar

APPELLANT

Vs

The District Magistrate and Collector, Cuddalore District,
Cuddalore and State of Tamil Nadu

RESPONDENT

Date of Decision : 17-04-2000

Acts Referred:

Citation : (2000) 2 LW(Cri) 639

Hon'ble Judges : V. Kanagaraj, J;R. Balasubramanian, J

Bench : Division Bench

Advocate : N. Doraisamy, for the Appellant; S. Anbalagan, Additional Public Prosecutor, for the Respondent

Final Decision : Allowed

Judgement

R. Balasubramanian, J.—This case has been taken out of turn, taking note of the fact that the detention order expires on 31.05.2000.

2. The petitioner is detained as a bootlegger under the Tamil Nadu Act 14/82 by detention order dated 31.05.1999. Mr. N. Doraisamy, learned

counsel appearing for the petitioner submitted only one point and that is as follows: The recovery mahazar found at page 33 of the booklet shows

the recovery of two samples of 500 ml. each in two containers. However, the chemical examiner's report at page 53 of the booklet shows that the

sample received in one container and subject to test was of the volume of 520 ml. Therefore, there is discrepancy in the volume of the contraband

stated to have been recovered and the volume of contraband stated to have been sent to the laboratory for test.

3. A number of judgments are there not only by this court but also by various other Division Benches of this Court holding that whenever such a

discrepancy is shown on record, it is the duty of the detaining authority to ask for clarification from the sponsoring authority and any failure to do so

would vitiate the order of detention, since mere is no guarantee as to what was recovered alone was sent to the laboratory for test. In this case

also, we find no explanation has been asked for by the detaining authority from the sponsoring authority. Following the long line of judgments we

have to hold mat the discrepancy in the volume of contraband recovered and tested goes to the root of the matter and there appears to be clear

non- application of mind, which vitiates the order of detention.

4. Accordingly, mis H.C.P. is allowed. The impugned order of detention is quashed. The detenu is directed to be set at liberty forthwith, unless his

detention is required in connection with any other case.