
(1995) 02 MAD CK 0028

In the Madras High Court

Case No : Habeas Corpus Petition No. 1208 of 1994

Sivalingam

APPELLANT

Vs

The District Magistrate and Collector and Another

RESPONDENT

Date of Decision : 16-02-1995

Acts Referred:

Citation : (1996) 2 CTC 277

Hon'ble Judges : Y. Venkatachalam, J; Janarthanam, J

Bench : Division Bench

Advocate : N. Doraisamy, for the Appellant; R. Raghupathi, Additional Public Prosecutor, for the Respondent

Final Decision : Allowed

Judgement

Janarthanam, J.—One Sivalingam (petitioner) is the detenu. The detenu, it is said, is a bootlegger. Apart from the ground case, as set out in the grounds of detention, he had come to adverse notice in five other cases.

2. The District Magistrate and District Collector, Pudukkottai District, Pudukkottai (first respondent), in exercise of the powers conferred by Sub-

section (1) of Section 3 of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas,

Immoral Traffic Offenders and slum Grabbers Act, 1982 (Tamil Nadu Act 14 of 1982) clamped upon the detenu, the impugned order of

detention, in his proceedings P.D.O.No.16 of 1994 dated 6.5.1994, with a view to preventing him from acting in any manner prejudicial to the

maintenance of public order and health.

3. Mr. N. Doraisamy, learned Counsel for the petitioner would press into service the lone and sole point for consideration, namely, that there was

no proper service of the intimation relatable to the place of detention of the detenu, within a reasonable time, from the date of his detention and on

this short ground alone, he would say, the impugned order of detention is liable to be set aside.

4. Mr. R. Raghupathi, learned Additional Public Prosecutor would, however, repel such a submission and produce the relevant file for perusal and consideration of this Court.

5. From a perusal of the file, we are able to find that the communication dated 7.5.1994 had emanated from the first respondent-detaining authority

informing one Kamatchi, mother of the detenu, as respects the detenu having been lodged at Central Prison, Tiruchirapalli pursuant to the

impugned order of detention under the Tamil Nadu Act 14 of 1982. This copy of the communication is stated to have been served upon her by the

Sub-Inspector of Police, Prohibition Enforcement Wing, Arantangi, in the presence of one Natarajan, assistant to the Village Administrative

Officer, Arasakulam (East). A thumb impression alleged to be that of Kamatchi in token of service by way of acknowledgement is traceable

therein. But, we are able to find that the same had not been identified to be that of the left thumb impression of Kamatchi. Therefore, it cannot at all

be taken for granted that there was proper service of the said intimation on the mother of the detenu.

6. Besides the impugned order of detention dated 6.5.1994 had been executed on the next day, namely, 7.5.1994. Even if the said service is

construed to be proper, it had been effected only on 13.5.1994. In such a situation, it goes without saying that there is unreasonable delay in

effecting such service.

7. On this short ground of delay in effecting the said service alone, the impugned order of detention is liable to be set aside and consequently, the

same is set aside. The detenu is therefore ordered to be set at liberty forthwith, unless and until he is required to be detained in connection with any

other case. The habeas corpus petition is thus allowed.