

(1954) 12 MAD CK 0004

In the Madras High Court

Case No : Criminal Revision Case No. 995 of 1954 and Criminal Revision
Petition No. 938 of 1954

Swarnalingam Chettiar

APPELLANT

Vs

Assistant Inspector of Labour, Karaikudi

RESPONDENT

Date of Decision : 03-12-1954

Acts Referred:

Constitution of India, 1950 — Article 20(3)
Criminal Procedure Code, 1898 (CrPC) — Section 96

Citation : AIR 1955 Mad 716 : (1955) 68 LW 737

Hon'ble Judges : Somasundaram, J

Bench : Single Bench

Advocate : N. Arunachalam, for the Appellant; Public Prosecutor, for the
Respondent

Judgement

This Judgment has been overruled by : V.S. Kuttan Pillai Vs. Ramakrishnan and
Another, AIR 1980 SC 185 : (1980) CriLJ 196 :

(1980) 1 SCC 264 : (1980) SCC(Cri) 226 : (1980) 1 SCR 673

Somasundaram, J.—This is a revision against issue of notice to the petitioner to
show cause why a general search warrant as asked for by

the Sub-Inspector of Karaikudi should not be issued. The warrant is to make a
search of the premises of Karaikudi Railway Out Agency and

obtain the documents mentioned in the list attached to the petition filed by the
Sub-Inspector. Before this application was filed by the Sub-

Inspector the accused himself was asked to produce certain documents. On that
he came up in CrI. R. C. No. 677 of 1054 asking for quashing of

that order on the ground that it offends Article 20(3) of the Constitution. A Bench
of this Court following a decision of the Supreme Court in --

M.P. Sharma and Others Vs. Satish Chandra, District Magistrate, Delhi and Others, held that the petition must be allowed. In allowing the petition

my Lord the Chief Justice and Rajagopala Aiyangar I, observed that the guarantee under Article 20(3) would extend to any compulsory process

for production of evidentiary documents which are reasonably likely to support a prosecution against the accused. They therefore quashed the

order asking the accused to produce the documents. After that, the petition by the Sub-Inspector was filed in the lower Court asking for a search

warrant, so that the premises in question may be searched and the documents mentioned in the list may be seized and produced before Court. On

this petition the lower Court has ordered notice to the petitioner to show cause why the premises in question should not be searched. It is against

this order that this petition has been filed.

2. The notice to the petitioner to show cause why his premises should not be searched practically amounts to stating that either he produces the

documents, or else the premises will be searched. To avoid the search the petitioner is likely to come forward with the production of the

documents himself. Instead of directly compelling him to produce by means of a summons, this notice to show cause will practically have the same

effect in an indirect manner. This notice, therefore, will amount to a testimonial compulsion and will stand on the same footing as the summons to

produce the same documents. The notice, therefore, issued to the petitioner to show cause why his premises should not be searched is

unsustainable and is hereby quashed.