
(2010) 10 MAD CK 0010
In the Madras High Court
Case No : H.C.P. No. 1143 of 2010

T. Murugan

APPELLANT

Vs

The Government of Tamil Nadu

RESPONDENT

Date of Decision : 27-10-2010

Acts Referred:

Penal Code, 1860 (IPC) — Section 323, 341, 392, 397, 427

Citation : (2010) 10 MAD CK 0010

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

Bench : Division Bench

Advocate : K. Murugan, for the Appellant; Babu Muthu Meeran, Additional Public Prosecutor, for the Respondent

Final Decision : Allowed

Judgement

M. Chockalingam, J.—Challenge is made to an order of detention made by the second respondent dated 11.5.2010, whereby the petitioner/detenu was ordered to be detained under Act 14/82 branding him as a Goonda.

2. The Court heard the learned Counsel for the petitioner and also looked into all the materials available.

3. It is not in controversy that pursuant to the recommendations made by the sponsoring authority that the petitioner/detenu was involved in three

adverse cases namely (1) K10 Koyambedu PS Cr. No. 627/2010 u/s 392 IPC; (2) V7 Nolambur PS Cr. No. 301/2010 and (3) V3 JJ Nagar

PS Cr. No. 318/2010 u/s 392 IPC, and also in a ground case registered by K10 Koyambedu PS in Crime No. 651/2010 under Sections 341,

323, 427, 397 and 506(2) IPC for an occurrence taken place on 22.4.2010, and he was remanded to judicial custody on the same day, and on

scrutiny of the materials available, the detaining authority after recording a subjective satisfaction that the activities of the detenu were prejudicial to

the maintenance of the public order, has made the order which is the subject matter of challenge before this Court.

4. Advancing arguments on behalf of the petitioner, the learned Counsel raised two grounds. Firstly, bail application was not filed in the first

adverse case registered u/s 392 of IPC for an occurrence that had taken place on 19.4.2010, and also in the ground case. But the authority has

stated that there was a real possibility of his coming out on bail. Both the cases were registered for grave offences, and hence the said observation

is without any basis. Secondly, he made a representation on 14.6.2010, and it was not at all considered.

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

made.

6. As could be seen above, the detaining authority after recording its subjective satisfaction that the activities of the detenu were prejudicial to the

maintenance of public order, has made the order under challenge. As far as the first ground urged by the learned Counsel for the petitioner, is

concerned, the detaining authority even after recording that he has not moved any bail application so far in respect of the first adverse case and the

ground case, has observed that there was a real possibility of his coming out on bail which is without any basis or foundation or material, much less

cogent material which the law would require. Under the circumstances, the order has become infirm.

7. As regards the second ground, it is represented by the learned Additional Public Prosecutor for the State that it is true that there was a

representation received by the Government on 28.6.2010, and the same was also disposed of on 14.7.2010, and thus there was no delay at all.

Under the circumstances, though not the second ground is available to the petitioner, on the first ground, this Court is of the view that the order has

got to be set aside.

8. Accordingly, this habeas corpus petition is allowed setting aside the order of detention passed by the second respondent. The detenu is directed

to be set at liberty unless his custody is required in connection with any other

case.