
(2010) 03 MAD CK 0096
In the Madras High Court
Case No : HCP. No. 1746 of 2009

V. Rathanammal	Vs	APPELLANT
The State of Tamil Nadu		RESPONDENT

Date of Decision : 15-03-2010

Acts Referred:

Penal Code, 1860 (IPC) — Section 294, 302, 307, 324, 341

Citation : (2010) 03 MAD CK 0096

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

Bench : Division Bench

Advocate : R. Ramprakash, for the Appellant; V.R. Balasubramanian, Additional Public Prosecutor, for the Respondent

Final Decision : Dismissed

Judgement

M. Chockalingam, J.—Challenge is made to the detention order passed by the second respondent in proceedings No. Cr. M.P. No.

8/2009 dated 16.3.2009, whereby the order of detention was passed against the alleged detenu Thada @ Veeramani branding him as ""Goonda"".

2. This Court heard the learned Counsel appearing for the petitioner. Affidavit filed in support of the petition is perused.

3. It is not in controversy that an order of detention came to be passed by the second respondent terming the detenu as ""Goonda"" on the

recommendations made by the Sponsoring Authority that he is involved in two adverse cases viz. (i) Ariyalur: Jeyankondam Police Station Crime

No. 184 of 2005 for the offences under Sections 341, 324, 307, 506(ii) of the Indian Penal Code and (ii) Ariyalur: Jeyankondam Police Station

Crime No. 246 of 2006 for the offences under Sections 341, 324, 307, 506(ii) of the Indian Penal Code and Sections 4 and 5 of I.E.S. Act and

also the ground case in Crime No. 91 of 2009 registered by Jayamkondam police station for the offence u/s 302 of the Indian Penal Code. The

second respondent passed the detention order, after arriving at the subjective satisfaction that the activities of the alleged detenu were prejudicial to

the maintenance of public order. Hence, he was to be termed as Goonda as contemplated u/s 2f of the Tamil Nadu Act 14 of 1982 and the order

of detention was passed.

4. Assailing the order of detention, learned Counsel appearing for the petitioner would submit that in the instant case, the translated version that

was given was self contradictory. Insofar as the motive part is concerned, two different modes are actually found both in the Tamil version and in

English/ In the Tamil version, it is stated that he would do away with the life of the victim. But in the translated version, it is not found to be so and

that the translated version is found discriminatory.

5. Learned Counsel added further that it is the case of 302 of the Indian Penal Code, which is against a particular individual and hence, there is

nothing as to disturb the public order or peace. Hence there is nothing to disturb the maintenance of public order. Under such circumstances, the

conclusions arrived at by first and second respondents that the activities of the detenu were prejudicial to the maintenance of public order was not

correct. Under such circumstances, it has got to be set aside.

6. In order to fortify the third ground, learned Counsel relied on the decision reported in the case of Kausalya, Smt. v. The District Collector and

District Magistrate 2005 MLJ (CrL.) 612.

7. This Court heard the learned Additional Public Prosecutor on the above contentions.

8. This Court paid its anxious consideration on the submissions made by either side. The detention order is challenged on three grounds. Firstly, no

proper translated version was given to the detenu. Secondly, the motive part is not actually spoken to correctly. Thirdly, it was only a case of

murder. Insofar as ground case was concerned, the allegation against the detenu was one for murder and hence it would not even touch the public

tranquility or peace.

9. After looking into the materials on record, the Court is of the considered opinion that the Court is unable to agree with anyone of the

contentions. Insofar as the translated version is concerned, learned Counsel appearing for the State brought to the notice of this Court that the

translated part of which is attacked by the learned Counsel for the petitioner is not in any way found to be discriminatory.

10. Insofar as the second contention of motive is concerned, the Court is unable to notice any contra view than what is found. Apart from that,

insofar as the third contention is concerned, as could be seen from the order, a case in crime No. 91 of 2009 was registered for the ground case. It

is true that the case was registered for murder u/s 302 of the Indian Penal Code, but it had taken place in public place. There was a narration as to

how the tranquility and peace was disturbed.

11. The decision relied on by the learned Counsel for the petitioner is not applicable to the present case. In that case, there was a meeting going

on, there was some disturbance and thereafter, peace was restored. In the present case, the public tranquility and peace was in peril. It cannot be

said that it was an act against the particular individual. It was taken place in public place and created panic in the minds of the public. Hence, the

Authorities are perfectly correct in saying that the detenu has disturbed the maintenance of public order. Hence, the contention of the learned

Counsel for the petitioner cannot be accepted and no merit is carried away by the petitioner's side. The order under challenge has got to be

sustained. Accordingly, the habeas corpus petition is dismissed.