

THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE M. SEETHARAMA MURTI

WRIT PETITION No.22323 of 2016

ORDER: (Per Hon'ble Sri Justice Sanjay Kumar)

Challenge in this writ petition is to the detention of the petitioner's son, Markondan Lakshman alias Lakshmanan, under order dated 17.05.2016 passed by the Collector and District Magistrate, Chittoor, in exercise of power under Section 3(1)&(2) read with Section 2(a)&(g) of the Andhra Pradesh Prevention of Dangerous Activities of Bootleggers, Dacoits, Drug-Offenders, Goondas, Immoral Traffic Offenders and Land Grabbers Act, 1986, which was confirmed by the Government of Andhra Pradesh under G.O.Rt.No.1326, General Administration (Law & Order) Department, dated 21.06.2016.

Though various grounds are sought to be urged by Sri D.Purna Chandra Reddy, learned counsel for the petitioner, in support of his attack against the subject detention, we find that the issue is amenable to resolution on a short ground.

The petitioner claimed in the affidavit that the detenu is a resident of Chennai, presently residing at Kolkata, and he knows only Tamil language. She further stated that though the detenu can sign in English, he cannot understand anything in English language. This factual aspect is not disputed by the learned Special Government Pleader appearing for the State. While so, perusal of the material relied upon by the detaining authority, which was also made available to the detenu, reflects that the documents were in English and Telugu languages. No translated copies of these documents were made available to the detenu. Learned Special

Government Pleader would point out that on each page of the documents supplied to the detenu, he signed under an endorsement in Tamil to the effect that the contents of the said page were read over and explained to him in Tamil, the language known to him.

We are however of the opinion that this would not be sufficient compliance with the constitutional mandate of giving an opportunity to the detenu to effectively make a representation against his detention. To give effect to such constitutional right, it is incumbent upon the State to make available translated copies of all documents relied upon by the detaining authority in a language known and understood by the detenu. Merely explaining the contents of such voluminous documents at one go would not ensure that the detenu would remember and recall all that was explained to him in Tamil for the purpose of formulating his representation effectively. Failure to furnish such translated copies of the documents relied upon in a language known and understood by the detenu falls foul of the law laid down by the Supreme Court in *Powanammal v. State of Tamil Nadu*¹ and, more recently, by this Court in *Vasanthu Sumalatha v. State of Andhra Pradesh Rep. By its Chief Secretary, Hyderabad*². In that view of the matter, the failure on the part of the State to abide by the constitutional mandate vitiates the detention visited upon the petitioner's son, Markondan Lakshman alias Lakshmanan.

The detention order dated 17.05.2016 and the consequential G.O.Rt.No.1326, General Administration (Law & Order) Department, dated 21.06.2016, are accordingly set aside. The detenu, Markondan Lakshman

¹ (1999) 2 SCC 413

² 2016 (1) ALT 738 (D.B.)

alias Lakshmanan, shall be set at liberty forthwith in the event his detention is not required in connection with any other case.

The writ petition is allowed. Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

SANJAY KUMAR, J

M. SEETHARAMA MURTI, J

14th September, 2016
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