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THE STATE OF TAMIL NADU AND ANR.

v

BALASUBRAMANIAM

FEBRUARY 20, 2001

B

[S.N. VARIAVA AND M.B. SHAH, JJ.]

*Criminal Law*

C *Constitution of India—Articles 226 & 21 Preventive Detention—High Court quashing detention of Respondent—On ground of non-supply of documents relating to four occurrences—Held, on facts, only one incident mentioned in detention order—Detention valid—Further held, in the circumstances detenu need not undergo remaining period of sentence.*

D **The Appellant passed detention order against Respondent which was quashed by the High Court in a Habeas Corpus Petition on the ground that in the Affidavit of the Sponsoring Authority it has been mentioned that the Detenu was involved in six cases and that in the detention Order it has been stated that Detenu was involved in four occurrences in four different cases, that the Detenu had been given copies of documents in respect of one case, only even though the Detaining Authority was bound to give copies in all the six cases and that the Detenu had been denied an effective opportunity to defend himself. Hence this appeal by the State.**

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**Disposing of the Appeal, the Court**

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**HELD : 1. A careful reading of the Detention Order shows that it does not refer to four occurrences in four different places, but is only mentioning that an offence had taken place in Sobanapuram section, Koppampatti beat, Manamalai forest and at Anaikkal road. Had the High Court applied its mind properly, it would have realised that there were no four occurrences in four different places. Admittedly, the Detenu has been given copy of the documents in the adverse case relied upon. There has been total non-application of mind on the part of the High Court. [1144-D-E]**

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**2. The Detention Order was of 1999. The same had been quashed by the High Court in March 2000. The period of detention is over. This is not a case where the Detenu should be made to surrender to undergo the remaining**

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period of detention. [1144-F]

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CRIMINAL APPELLATE JURISDICTION : Criminal Appeal  
No. 206 of 2001.

From the Judgment and Order dated 10.3.2000 of the Madras High Court  
in H.C.P. No. 869 of 1999.

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R. Mohan and V.G. Pragasam for the Appellant.

R.S. Suri, (A.C.) and V.K. Shailendra for the Respondent.

The Judgment of the Court was delivered by

C

S. N. VARIAVA, J. Leave granted.

Heard parties.

This Appeal is against an Order dated 10th March, 2000. By this Order  
a detention Order dated 7th April, 1999 has been quashed on the ground that  
in the Affidavit of the Sponsoring Authority it has been mentioned that the  
Detenu was involved in six cases and that in the detention Order it has been  
stated that the Detenu was involved in four occurrences in four different  
cases. It is held that the Detenu had been given copies of documents in  
respect of one case only even though the Detaining Authority was bound to  
give copies in all the six cases. It is held that thus the Detenu had been denied  
an effective opportunity to defend himself. On this ground the detention  
Order was set aside.

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It is correct that the Detaining Authority has to apply its mind before  
issuing a Detention Order. However, it is equally important that the Court,  
hearing a Habeas Corpus Petition under Article 226 of the Constitution of  
India, also applies its mind before it quashes a Detention Order. Undoubtedly,  
in the Affidavit filed by the Sponsoring Authority reliance has been placed  
on six cases. However, the Detaining Authority has not placed reliance on six  
cases. This itself shows that the Detaining Authority had applied its mind and  
not gone just by what was stated by the Sponsoring Authority.

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In Para 2 of the impugned Order it is stated as follows:

"2. In sub-para 2 of paragraph 3 of the grounds of detention it is  
stated as follows:

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A “He has committed the above mentioned offences in Sobanapuram, Koppampatti, Manamalai, Anaikkal which are rich in sandalwood and other species and wild life.”

The detenu is stated to have been involved in four occurrences in four different cases. ....”

B From the statement extracted above it has been concluded that there were four occurrences in four different places. However, the same Detention Order also sets out as follows:

C “On 16-3-99 on a reliable information, the Forest Range Officer, Perambalur and incharge of Thuraiyur Range, formed a special party led by him, proceeded at about 5 PM to conduct forest offences raid at Sobanapuram Section, Koppampatti beat, Manmalai Reserve Forest Jee road.”

D Thus it is clear that Sobanapuram is a Section, Koppampatti is a beat, Manmalai is a reserve forest and Anaikkal is a name of the road. A careful reading shows the Detention Order does not refer to four occurrences in four different places, but is only mentioning that an offence had taken place in Sobanapuram section, Koppampatti beat, Manamalai forest and at Anaikkal road. Had the High Court applied its mind properly, it would have realised that there were no four occurrences in four different places. Admittedly, the Detenu has been given copy of the documents in the adverse case relied upon.

E In our view, there has been total non-application of mind on the part of the High Court. The impugned Order of the High Court cannot be sustained and it is hereby set aside.

F However, the Detention Order was of 1999. The same had been quashed by the High Court in March 2000. The period of detention is over. In our view, this is not a case where the Detenu should be made to surrender to undergo the remaining period of detention.

G The Appeal stands disposed off accordingly. There will be no Order as to costs.

V.M.

Appeal disposed of.