

Devadasan Dayalal Vs. Collector of Customs and Central Excise and ors.

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SooperKanoon Citation : sooperkanoon.com/722183

Court : Kerala

Decided On : Jul-24-1986

Reported in : 1986(9)ECC345; 1986LC558(Kerala); 1986(26)ELT728(Ker)

Judge : R. Sukumaran, J.

Acts : [Customs Act, 1962](#) - Sections 110(3); [Passports Act, 1967](#) - Sections 6

Appeal No. : O.P. No. 3229 of 1986-H

Appellant : Devadasan Dayalal

Respondent : Collector of Customs and Central Excise and ors.

Advocate for Def. : P.A. Mohammed, Government Pleader

Advocate for Pet/Ap. : P.K. Hamza, Adv.

Disposition : Petition dismissed

Judgement :

R. Sukumaran, J.

1. The petitioner landed in the Trivandrum Air Port on 6.12.1985. He had come from Abu Dhabi. He had with him varieties of goods : cassettes and cameras, cigarettes and liquor, bed and bracelet and the like. Not per se objectionable. Duty has to be and has been paid for the value exceeding the permissible limit.

According to the Customs, he had something more; and of an objectionable type; gold biscuits weighing 2088 grams, and of a probable market value of Rs. 4,32,216.

2. The petitioner had a different version about it; he disputes the mahazar wherein the seizure of the gold biscuits is indicated; he disputes the statements signed by him, as, according to him, they were obtained under coercion and pressure.

3. It is not disputed that the petitioner has been arrested, that he has been produced before the court trying the economic offences, and that the proceedings there continue to be pending.

4. The authorities have with them the passport of the petitioner. It was seized by the 3rd respondent, Superintendent (I.N.D.), Air Customs, Trivandrum. The Magistrate passed orders impounding the passport. The petitioner filed petitions for the release of the same. That request was not conceded to by the respondents. He has thus approached this court for the release of the passport.

5. Power for the retention of the passport is claimed by the respondent under proviso to Section 110 Tamil Nadu Societies Registration of the Customs Act. That section reads:

'The proper officer may seize any documents or things which, in his opinion, will be useful for, or relevant to, any proceeding under this Act.'

6. Counsel for the petitioner urged an extreme contention that the passport is not a document as visualised in that section. The exact connotation of a 'document' in different statutory contexts, has occupied judicial thoughts in the past. Speaking on one such occasion, Martin, B. expressed his dislike to the discussion of a long chain of authorities. He characterised the exercise as 'wading through mire'. Counsel appeared to have shared that approach. The contention needs to be examined carefully by the court.

7. 'Document' is a word, of which every one thinks he knows the meaning. That is how Humphreys, J. felt in *Hill v. Regem*, (1945) 1 K.B. 329. The difficulty arises when specific situations arise calling for precise delineation of the contours of the

meaning of that term. Etymologically it means something, shows something, teaches something and is evidential or informative in its character. That meaning may not be decisive and conclusive in all situations. The context in which the word appears is of prime importance in determining the meaning for the specific purpose under consideration. As Humphreys, J. summarised the effect of the derivation of the word from Latin and the evaluation of judicial decisions:-

'...a document must be something which teaches you and from which you can learn something, i.e. it must be something which accords information.'

The form in which it takes place is immaterial. It may be anything on which the information is written or inscribed - the paper, parchment, stone or metal. Inscription in recent times is invariably on paper. That was not the case during the earlier times. The common case then was about the inscription being on parchment. Still earlier, there had been inscriptions on stone, marble or clay, and quite often on metal. These are all long ago stories and matters of history. The emphasis is, therefore, about the information contained or conveyed. Viewed that way, a ledger, an account book, a cheque leaf and its stub or even a sealed envelope have been treated as document. Summons for non-payment of rates can also come under that term. And even plans and drawings. Lush. 3. in *Hayes v. Brown*, (1920) 1 K.B. 250 observed:

'There are very many plans which are documents in the nature of evidence.' (The particular plan considered in that case was not one which was prepared only for the purpose of illustrating the plaintiff's case and as such not answering the definition of a document).

8. Let us now have a look at the passport. It is a cute little book, neatly bound. And let us then open it. It begins with an impressive emblem of the Nation. There is a request and a requirement in the name of the President of India to allow the bearer to pass freely without let or hindrance, and to afford him or her, every assistance and protection of which he or she may stand in need. Doubtless, it is a repository of very many important pieces of information, personally and otherwise. It can almost construct the picture of a person by the details contained in the passport. The name, national status, domicile, the height, the colour of the eyes and that of

the hair and the visible distinction marks, are all such details of information. Though a photograph may not, according to Lush, J., constitute a document, the information conveyed by the photograph as affixed in the passport is itself a conveyor of information.

9. The application form for the issue of a passport contains many items of information, such as those referred to in Section 6 of the Passports Act. A passport issued on the basis, and incorporating the details of such information, would therefore, be something which gives information of an evidentiary nature.

10. The passport itself contains prominent cautions:-

Caution:-1. This is a valuable document ...

**** ** ***4. The passport is a sure means of establishing the holder's identity and should therefore, be carried personally.'

(emphasis supplied)

11. Before the present [Passports Act, 1967](#), the Full Bench of this court discussed the content and effect of a passport in Francis Manjooran v. Government of India, 1965 KLT 1976. Chief Justice M.S. Menon (mercifully unparsimonious in this 'case in sharing his missive wealth of knowledge) quoted from Peuchet (a French revolutionary of 1791) and Weis, dealt with the definition occurring in the Shorter Oxford Dictionary

'A document issued by competent authority, granting permission to the person specified in it to travel, and authenticating his right to protection', and Bellentine's Law Dictionary:

'A document issued on behalf of a citizen of the United States by the Secretary of State, addressed to foreign powers and purporting to be a request that the bearer of it may pass safely and freely' and referred to the observation of Lord Alvestone, C.3. in 1905 (Rex v. Brailsford, 75 L. JKB 64) reading:-

'It is a document issued in the name of the Sovereign on the responsibility of a Minister of the Crown, to a named individual, intended to be presented to the

Governments of foreign nations, and to be used for that individual's protection as a British subject in foreign countries.' (emphasis supplied) And the learned Chief Justice neatly summarised the resultant position:

'...an Indian passport is an identity and (travel document issued), to an Indian national and essential for his travel outside India and for his return to this country.'

(emphasis supplied)

12. Raman Nair, J. asked the question: 'What is a passport today, whatever might be its historical origins?' and 'answered the question:

'It is many things, for it serves many purposes. It is among other things, an essential document of travel, for, most countries insist on a passport for entry and a good many for exit as well. It serves as a document of identity and is prima facie evidence of nationality.'

(emphasis supplied).

Hackworth's (in his Digest of International Law, Vol.111, page 435) observation:

'The American passport is a document of identity and nationality issued to persons owing allegiance to the United States and intending to travel or sojourn in foreign countries....'was an addition to the citations already made.

13. It is unnecessary to refer to all the Indian decisions wherein the emphasis on passport being a 'document' has been given. The Supreme Court devoted considerable judicial time in the examination of the implications of the passport in Maneka Gandhi's case recently, in *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248 and in *Satwant Singh Sawhney v. A.P.O., New Delhi*, AIR 1967 SC 1836, earlier.

14. On the consideration of the principles and precedents, there cannot be any doubt that a passport answers description of a 'document', occurring in Section 110(3) of the Customs Act. The legal contention has also to fail.

15. In the result, the original petition fails and it is accordingly dismissed with costs. Advocate fee Rs. 500.

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