

**In Re: R. Ramanathan**

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**Court :** Chennai

**Decided On :** May-20-1948

**Reported in :** 1949CriLJ679; (1948)2MLJ634

**Appellant :** In Re: R. Ramanathan

**Judgement :**

ORDER

**Yahya Ali, J.**

1. The petitioner R. Ramanathan was arrested under the Provisions of the Madras Maintenance of Public Order Act, 1947, on 1st April, 1948, at 6 A.M; in Royapettah. He was taken to the Royapettah Police Station and thence to the Madras Penitentiary where he was detained. The detention was under the orders of the Commissioner of Police, Madras, who on the same day intimated to the Government the fact of the issue of the order of detention along with the grounds for detention. The grounds were despatched by the Provincial Government to the Central Jail, Vellore, for service on the petitioner on 24th April, 1948. In the affidavit filed by a friend of the detenu it is stated that Ramanathan had been working as Joint Secretary of the Madras Provincial Trade Union Congress, and that for ten. years he was doing trade union work and as such was carrying on lawful activities connected with M.P.T.U.C. A further ground was taken in that affidavit that the order of detention was passed by the Commissioner on 1st April, 1948, after the arrest and not before, and that he could have had no reasonable

grounds for suspecting that the petitioner was acting in a manner prejudicial to the maintenance of Public Order. The plea was however not pressed at the time of the hearing of this application, and consequently it was not necessary to examine the Commissioner as it was done in other cases. It has to be presumed that the requirements of the action, as far as the procedure is concerned were duly fulfilled by the detaining authority.

2. After the grounds were served, as previously stated, upon the petitioner in the Vellore Jail, a supplemental communication was sent by the Provincial Government to the detenu on 14th May, 1948, containing further grounds. It is not clear under what necessity or provocation the subsequent communication was sent.

3. The original grounds are to the following effect:

He came to Madras in 1940 and was in contact with S.M. Ramiah, a staunch Communist. After the round up of Communists in March, 1941, in the City he established contact with the Youth League in the City in order to rally the anti-Imperialist elements and to reorganise the Communist groups. He joined his brother R.H. Nathan, a communist deportee from Malaya. He held secret meetings to revive Communist activities. He is in contact with the leaders of the Communist-controlled labour unions in the City and is responsible for strikes in the City. He is an active Communist worker and the Joint Secretary of the Madras Provincial Trade Union Congress.

There is in them a certain amount of vagueness, and most of the facts that are referred to appear to be nearly a decade old. The material part of the grounds is that the detenu held secret meetings to revive Communist activities, that he was in contact with the leaders of the Communist-controlled labour unions in the City, and that he was responsible for strikes in the City. It is also urged that he is an active Communist worker and Joint Secretary of the Madras Provincial Trade Union Congress, which fact is not denied. There is thus very little in the original grounds to show that any authority could have been reasonably satisfied upon those grounds that the person of that description fell within the mischief of Section 2(1)(a). It is not alleged that the Madras Provincial Trade Union Congress is an unlawful body or is engaged in activities of a prejudicial nature; nor is it alleged

that organising of strikes per se is unlawful, so long as they are conducted in a peaceful manner without any interference with the lawful exercise of rights by the public and by the respective authorities. Even otherwise, the statement, that the detenu held secret meetings and was in contact with Communist-controlled labour unions is bald and does not convey any clear impression as to when he was concerned, in those activities with reference to the date of the order of detention.

4. Turning to the additional grounds, it is necessary, since they are of an extensive nature, for me to deal with them in some detail. I shall read each paragraph and make my comments.

(1) 'In 1933-34 he went to Malaya and started a Tamil Journal ' Samuthaya Ooliyam ' advocating the cause of Nationalism and Communism. In 1936 he made contact with S.M. Ramiah, member of the Malayan Communist party, and assisted him in running his paper.

Obviously these are matters relating to past acts that took place more than a decade prior to the detention and can have no direct bearing upon the question at issue.

5. The second paragraph is as follows:

He published and distributed objectionable leaflets, for which he was prosecuted and bound over to be of good behaviour. Undeterred by this prosecution, he carried on objectionable Communist activities among the unemployed and the youth of the City. He took an active part in the Madras Youth Conference in April, 1941, and instigated Simpson & Co. workers engaged in Army contracts to strike. He interested himself in the Madras Bus strike and created unrest amongst industrial workers in Madras City. He was arrested and detained in 1941.

These, also concern activities prior to 1941 and are mostly related to work he is said to have done among the industrial workers in Madras City.

6. In the following paragraph (3) it is said:

He was released from detention in May, 1944, and continued to work in the Communist Party office as a whole time worker, He is a member of the Madras District Committee of the Communist Party of India. He has participated in several meetings held in the City under the auspices of the Communist Party. He was detained in January, 1947, and released in August, 1947.

This brings us to facts nearer the relevant date. All that appears from the facts recited therein is that after his release in 1944 he practically became a whole time worker in the Communist Party. He was detained for a second time in January, 1947, and released in connection with the Independence Day.

7. The next paragraph is of some importance:

Speaking at a meeting of workers on 28th November, 1947, he strongly criticised the Government's policy and exhorted the workers to go on strike if their demands were not conceded. In the same meeting he expressed sympathy with the N.G. Os. Addressing the Electric and Tramway workers on 10th December 1947, he criticised and warned the Government for taking sides with the capitalist and crushing the labour. At a workers' meeting on 27th December, 1947, he opposed the Government's policy of de-control and said that the Government had yielded to the pressure of the Capitalists. He supported the cause of the N.G.Os. and moved a resolution criticising the abolition of control and rationing of foodgrains. On 11th January 1948, while speaking at a workers' meeting he condemned the Government's policy towards labour and alleged that the Government had combined with the capitalists in pulling down the workers.

The Maintenance of Public Order Act came into force on 12th March, 1947. The acts mentioned in this paragraph are subsequent to that date. The gravamen of the charge against the detenu levelled in this paragraph is that he was strongly criticising, the policy of the Government with regard to certain matters, by characterising their attitude as being anti-labour and pro-capitalist, and he held up to criticism their treatment of the non-gazetted officers and their policy in respect of food decontrol and de-rationing. Nowhere in this paragraph or in any of the three preceding paragraphs is there the slightest indication of the detenu having in any of those utterances counselled the audience or the workers to employ violent

means in pursuing their agitation. Presumably all the meetings which are referred to were conducted openly and with the previous permission of the concerned authorities, at all events with their full knowledge.

8. The next paragraph runs thus:

He participated in secret party meetings held on 6th December, 1947, and 7th January, 1948, to draw up the programme of the party. In these meetings it was decided to put up a strong protest against the food policy of Government by public meetings and processions. Allegations were also made that the Government was hand in glove with capitalists and that some cases of black-marketing and corruption unearthed by the partymen were hushed by Congress M.L.As. and Ministers.

This also concerns criticism by the detenu on the food policy of the Government, and it is added that allegations were made by him at secret party meetings that the Government was hand in glove with capitalists, and that some cases of black-marketing and corruption unearthed by the partymen were hushed by Congress M.L.As. and Ministers. Here again I am unable to see anything from which it can be inferred that the conduct of the detenu in exposing certain matters concerning those topics--I am not now concerned with whether his allegations were true or not--amounted to such prejudicial conduct as would attract the application of Section 2(1)(a).

9. The only material portion in the additional grounds is what is found in the last two paragraphs 6 and 7.--

He is an important member of the Communist party which is now out for violence and is engaged in subversive activities.

Most of the important members of the party have gone underground and from there they are guiding various crimes such as arson, loot, murder etc., committed by Communists. Communists are also extorting money from the public by illegal means for party purposes. Leaflets are also published praising the work of Communist hooligans and encouraging the ignorant to follow them. He being an

important member of the party will be guided by the instructions of those leaders and is likely to indulge in crimes, etc.

It may be seen that all that is charged against the detenu is that he is an important member of the Communist Party which is out for violence and that he is engaged in subversive activities. It is then stated that the Communist Party has gone underground and that they are guiding from there certain grave crimes such as arson, loot, murder, etc., committed by Communists. Other similar allegations are made with reference to Communists in general and it is finally stated that he is likely to be guided by the instructions of those leaders and to indulge in crimes. The gist of the grounds excluding matters which do not appear to have any bearing is that he is an active and important member of the Communist Party, that that party has for its creed the cult of violence and that in view of his position in the party he is likely to carry out the programme of that party.

10. I questioned the learned Assistant Public Prosecutor categorically whether membership of a party which has not been declared unlawful is by itself sufficient to justify an order of detention under the Act, in the absence of anything more specific to indicate that by reason of that membership or in consequence thereof the member was acting or about to act in a manner prejudicial to public peace and public order. I was unable to obtain a direct answer to this question for the obvious reason that such a ground, free as it is of any aspect of unlawful conduct, is not sufficient to deprive a subject of his liberty. If, however, in addition to membership, anything else exists or is shown to exist from which the detaining authority was satisfied that the particular person was about to act in a prejudicial manner and that it was necessary to detain him for preventing him from doing so, there cannot be the slightest doubt that the Provincial Government or the delegated authority would have the power to direct his detention. In the present case I have very closely scrutinised both the original and supplemental grounds, and I fail to see anything therein to indicate that beyond his membership of the Communist Party and his activities in connection with the Trade Union Congress, there is anything else to indicate an attitude on his part of doing acts likely to disturb public tranquillity. It need hardly be pointed out that this special enactment is directed not against organisations or parties or groups of persons but against particular

individuals, and it is their conduct, their attitude, their tendency which has to be borne in mind in coming to the conclusion whether they are persons who should be held under detention in the interest of public safety. Mere membership of a body not declared unlawful, in the absence of any overt acts of a nature suggesting that the particular person was acting or about to act in a manner contemplated in the act, is, in my opinion, not a ground for detention. The last sentence in the supplemental grounds that the detent will be guided by the instructions of the leaders and is likely to indulge in crimes is at best conjectural, and I am not satisfied that the detaining authority is entitled on a conjecture of that kind to say that he is satisfied that the particular person is about to act in a prejudicial way.

11. The aspect which has impressed me most in the matter is that for a long time the petitioner admittedly has been an active worker in the Trade Union Congress, and during that period, although he has encouraged strikes and criticised the Government in regard to some of their policies, it does not appear that he has committed or threatened to commit any overt acts of violence. There does not seem to me to be any basis even for the conjectural statement that is found in the last sentence of the additional grounds. I am not satisfied about the bona fides of the detention of the petitioner. I hold that upon the grounds that are mentioned the detaining authority could not have been satisfied that the petitioner was acting or about to act in a manner prejudicial to public safety and public order. In this view, the detention has to be held to be illegal.

12. The petitioner is directed to be released immediately.