

IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL No.1211 OF 2009  
[Arising out of SLP(Crl.) No.4054 of 2008]

A.T.MAIDEEN ... Appellant(s)

Versus

STATE OF TAMIL NADU & ORS. ... Respondent(s)

ORDER

Leave granted.

This appeal arises out of an order passed by the Madras High Court on 26/02/2008, in H.C.P. No.585 of 2004, which was an application under Article 226 of the Constitution, for issuance of writ in the nature of habeas corpus and also for quashing of the detention order dated 22/05/2003, passed by the State of Tamil Nadu.

The detention order was passed, inter alia, on the confession made by one Abdul Lasa, who was a co-detenu, which will be evident from the grounds of detention supplied to the appellant.

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Mr. K.K. Mani, learned advocate appearing for the appellant submits that the confession statement made by Abdul Lasa was subsequently retracted by him on 29/04/2003, but the same was not placed before the detaining authorities when the detention order was passed.

Relying on a decision of this Court in the case of Deepak Bajaj Vs. State of Maharashtra & Anr. , reported in 2008(14)SCALE 62, Mr. K.K. Mani, submitted that while discussing the various decisions on the point, this Court had in the said judgment referred to the decision of this Court in the case of A.Sowkath Ali Vs. Union of India & Others, 2000(7)SCC 148,

wherein it had been held that if the detaining authority had relied on a confessional statement, then the retraction of that statement should also have been placed before the detaining authority and should have been considered by it and failure to do so would invalidate the detention order.

It has been categorically submitted that the said retraction by Abdul Lasa had not been placed before the detaining authority.

Mr. Kanagaraj,, learned senior counsel appearing for the respondent State of Tamil Nadu, did not dispute the said

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submission made on behalf of the appellant.

Having regard to the above and the well-established principles, as set out in A.Sowkath Ali's case (supra), we allow the appeal and quash the detention order referred to hereinabove.

The appeal is accordingly allowed.

.....J.  
(ALTAMAS KABIR)

.....J.  
(CYRIAC JOSEPH)

New Delhi,  
July 13, 2009.  
ITEM NO.57

Court No.6 SECTION IIA

SUPR EME COUR T OF I N D I A  
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Crl) No(s).4054/2008  
(From the judgement and order dated 26/02/2008 in HCP No. 585/2004 of  
The HIGH COURT OF MADRAS)

A.T.MAIDEEN Petitioner(s)

VERSUS

STATE OF TAMIL NADU & ORS. Respondent(s)  
(With office report )

Date: 13/07/2009 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ALTAMAS KABIR  
HON'BLE MR. JUSTICE CYRIAC JOSEPH

For Petitioner(s)

Mr. K.K. Mani, Adv.  
Mr. Ankit Swarup, Adv.

For Respondent(s) Mr. V.Kanagaraj, Sr. Adv.

Mr. S. Thananjayan, Adv.

UPON hearing counsel the Court made the following  
ORDER

Leave granted.

The appeal is allowed in terms of the signed order.

(Sheetal Dhingra) ( Juginder Kaur )

Court Master Court Master

[Signed order is placed on the file]