

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Crl.) No. 3903/1999
(From the judgement and order dated 10/08/1999 in CRLWP 354/99
of The HIGH COURT OF BOMBAY)

STATE OF MAHARASHTRA AND ORS.

Petitioner (s)

VERSUS

VIDYADHAR H. VERMA

Respondent (s)

(With Appln(s). for stay)
(With Office Report)

Date : 20/11/2000 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.B. PATTANAİK
HON'BLE MR. JUSTICE SHIVARAJ V. PATIL

For Petitioner (s) Mr. V.N. Ganpule, Sr. Adv.
Mr. S.S. Shinde, Adv. for
Mr. S.V. Deshpande, Adv.

For Respondent (s) Mr. Bhaskar Y. Kulkarni, Adv.

UPON hearing counsel the Court made the following
O R D E R

.....L.....I.....T.....T.....T.....T.....J.
.SP2

Leave granted.
The Appeal is disposed of.

.SP1

(Y.P.Dhamija) (Suneet Bala Sharma)@@
AA
COURT MASTER COURT MASTER

Signed order is placed on the file.

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.1000/2000@@
EEEEEEEEEEEEEEEEEEEEEEEEEEEEEEEEEEEE
(arising out of SLP(CRL) No. 3903/1999)

State of Maharashtra & Ors.Appellants

Vs.

Vidyadhar H. VermaRespondent

O R D E R@@
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.....L.....I.....T.....T.....T.....T.....J.
.SP2

Leave granted.

The State of Maharashtra is in appeal against the impugned judgment of the Bombay High Court assailing an order of detention, the order having been issued under the provisions of Maharashtra Prevention of Dangerous Activities of Slumlords, Bootleggers, Drug Offenders and Dangerous Persons Act, 1981. The impugned judgment indicates that the High Court examined the statements which formed the basis of the subjective satisfaction of the detaining authority and on shifting and re-appreciating the same the Court came to the conclusion that the satisfaction of the detaining authority is vitiated. Mr. Ganpule appearing for the State of Maharashtra contends that while exercising the power of judicial review against an order of detention, the High Court does not possess the power to appreciate and shift evidence and form its own satisfaction in substitution of the satisfaction of the detaining authority. Judged from this

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point the impugned order cannot be sustained. The learned counsel appearing for the detenu respondent, on the other hand, contended that if the satisfaction of the detaining authority is based upon some materials on which no reasonable man could arrive at this satisfaction, then it will be well within the power of the High Court under Article 226 to interfere with the said conclusion and consequently in the case in hand the High Court did not commit any error in setting aside the order of detention and issuing a Writ of Habeas Corpus.

Having examined the correctness of the rival submissions at the Bar and the impugned judgment of the High Court, we have no manner of doubt that the High Court committed serious error in shifting the materials on the basis of which the satisfaction of the detaining authority had been arrived at. The High Court does not possess that jurisdiction in exercise of its supervisory jurisdiction and the conclusion of the High Court on the basis of shifting of evidence cannot be sustained in law. We, therefore, set aside the impugned order of the High Court. But it is brought to our notice that the period of detention is already over and therefore our allowing this appeal and interfering with the impugned judgment will not cloth the authority of the power of detaining the respondent on the self same materials.

The appeal is disposed of accordingly.

.SP1

.....J.
(G.B. PATTANAİK)

New Delhi,
November 20, 2000

.....J.
(SHIVARAJ V. PATIL)