

## Constitution of India

### Article 21

#### "Personal liberty"

##### Meaning and Scope

*Machinery for protection of the right to personal liberty*

**— Arts. 21 and 22 — Personal liberty — Deprivation of, must be in accordance with CrPC and Evidence Act, any other applicable statute, in this case the State preventive detention law concerned, and must be in consonance with mandates of the Constitution — Investigators cannot trample upon personal liberty by their mala fide acts or by abuse of power — Respondent State and its officers grossly abused their legal power to punish appellant to destroy his reputation — Hence, costs of Rs 2 lakhs directed to be paid to appellant — Human and Civil Rights — Right to Personal Liberty — Criminal Law — Criminal Trial — Investigation — Generally — Criminal Law — Criminal Procedure Code, 1973 - Ss. 155 to 173 — Evidence Act, 1872 - Ss. 59 to 65 — Preventive Detention — Detention order — Non-application of mind/Mala fide order/Colourable exercise of power — Preventive Detention — Particular Statutes and Norms — T.N. Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Slum Grabbers and Video Pirates Act, 1982 (14 of 1982) - Ss. 2(f), 3, 10 and 12(2)**

Personal liberty is of the widest amplitude covering a variety of rights. Its deprivation shall be only as per procedure prescribed in CrPC and the Evidence Act conformable to the mandate of the supreme law, the Constitution. The investigator must be alive to the mandate of the Constitution and is not empowered to trample upon the personal liberty of a person when he has acted with mala fides. (Para 48)

The action on the part of the first, second, third and fourth respondents in support of their act of detaining the appellant illegally by placing some material which was beyond the record justifies the appellant's allegation that the respondents abused their power and position to support their unfair order. The action was taken by the respondents based on alleged facts which do not exist and therefore, the same is held to be infected with an abuse of power. Therefore, though no specific finding on mala fide action on the part of the first, second, third and fourth respondents need be given but it must be held that the respondent State and its officers have grossly abused legal power to punish the appellant to destroy his reputation in a manner non-oriented by law by detaining him under Tamil Nadu Act 14 of 1982 in lodging a criminal case under Section 3 of the Police (Incitement to Disaffection) Act, 1922 and under Section 505(1)(b) IPC based on the wrong statements which were fully unwarranted. (Paras 49, 51 and 50) In view of the above finding, a costs of Rs 2 lakhs is imposed on the State of T.N. for payment in favour of the appellant. The respondents are directed to ensure the payment within two months. However, there shall be no separate order as to costs. (Para 51)

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➤ *N. Sengodan v. State of T.N.*,  
(2013) 8 SCC 664 : (2013) 4 SCC (Cri) 413 : 2013 SCC OnLine SC 512 : (2013) 4 LW 558 (SC)

➤ Bench Strength **2**. Coram : *G.S. Singhvi* and **S.J. Mukhopadhyaya**, JJ.  
[Date of decision : 01/07/2013]

*State of Bihar v. P.P. Sharma*, 1992 Supp (1) SCC 222 : 1992 SCC (Cri) 192, relied on  
*Bhut Nath Mete v. State of W.B.*, (1974) 1 SCC 645 : 1974 SCC (Cri) 300; *S.R. Venkataraman v. Union of India*, (1979) 2 SCC 491 : 1979 SCC (L&S) 216, applied  
*N. Sengodan v. Deptt. of Home (Prohibition & Excise)*, (2010) 4 MLJ 1165; *N. Sengodan v. Deptt. of Home (Prohibition & Excise)*, Writ Appeal No. 1426 of 2010, decided on 16-8-2010 (Mad), reversed

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