

## SUPREME COURT.

MRS. G. LATT (APPLICANT)

v.

THE COMMISSIONER OF POLICE AND ONE  
(RESPONDENTS).\*† S.C.  
1949

May 16.

*Detention under Public Order (Preservation) Act—Subordination of personal liberty to National interest—Discretion exercised by Officers entrusted with the power to order detention should not be lightly brushed aside.*

The Public Order (Preservation) Act is aimed at potential and not actual enemies of the State. The Act is not a punishing Act but a preventive one. Where a responsible Officer entrusted with the duty of guarding and protecting the safety of the State, says on oath that his order is based on information obtained from agents, informers and other reliable sources that through the detenu arms and ammunition were being supplied to insurgents, the Court cannot on mere denial by wife of the detenu, brush aside such statement on oath of such responsible Officer.

Personal liberty of a subject though precious, will have to be sacrificed to some extent by legal enactments promulgated for the safety of the Nation.

*Rex v. Halliday* (1917) A.C. 260 at 271, followed.

C. C. Khoo for the applicant.

*Ba Sein* (Government Advocate) for the respondents.

The judgment of the Court was delivered by the Chief Justice of the Union.

SIR BA U.—G. Latt, the detenu in this case, is a dentist of some repute practising in the City of Rangoon for the past several years. It is not alleged that he was before his incarceration connected in any way with any political party or took any interest in politics. Because of these facts we have given several anxious moments to the consideration of this case.

---

\* Criminal Misc. Application No. 105 of 1949 of the Supreme Court of the Union of Burma.

† Present: SIR BA U, Chief Justice of the Union of Burma, MR. JUSTICE E MAUNG of the Supreme Court and U TUN BYU, J.

The grounds given by the Commissioner of Police for G. Latt's detention are as follows :

"(1) He wields a great influence over the Karens of Hanthawaddy District especially in Twantè area.

(2) He has connections with many Karens of Twantè where the activities of the Karen insurgents have now been intensified.

(3) He is reported to have been distributing arms and ammunition to Karen insurgents in Twantè area. These arms and ammunition were reported to have been sent through his Karen agents on board ' Htaiksan ' motor launch."

If the first two grounds are taken by themselves they can hardly form a basis for the arrest and detention of any man, leave alone a man of position and influence. If a man were to be arrested and detained simply because he happened to be a man of position and influence, nobody would be safe. Besides it would be against not only the spirit but the letter of the Constitution. But if these two grounds are taken into consideration with the third ground, there may then be something to be said against the detenu. Even the third ground as it stood originally, when properly analysed and considered carefully, would not sustain an order for detention. We therefore directed that fuller and better particulars regarding the alleged activities of the detenu should be given. They have now been given. In brief, what these particulars amount to is that the detenu was seen going about with Karens bringing rice from Twantè by a certain motor launch flying the Karen "Phasi" flag to the Ghee Hin Pweyon in No. 15, Oliphant Street, Rangoon, and the said Karens took back arms and ammunition from Rangoon by the same motor launch. The implication is that the said Karens obtained arms and ammunition from the detenu. All these allegations are of course denied by the wife of the detenu, who is the applicant in this case.

S.C.  
1949.

MRS. G.  
LATT

v.  
THE COMMIS-  
SIONER OF  
POLICE  
AND ONE.

S.C.  
1949  
—  
MRS. G.  
LATT  
v.  
THE COMMISSIONER OF  
POLICE  
AND ONE.

Now, what is to be remembered is that the Public Order (Preservation) Act is aimed at potential and not actual enemies of the State. The Act is not a punishing Act but a preventive one. Therefore when those entrusted by Parliament with the duty of guarding and protecting the safety of the State, say on oath that the information that it was through the detenu that the Karen insurgents in Twantè area obtained their arms and ammunition, was obtained through their agents and informers and other reliable sources, we cannot lightly brush aside their statements; more so in a case, as in the present one, when their statements are controverted by a single statement of the wife of the detenu. Borrowing the words uttered by Lord Atkinson in the case of *Rex v. Halliday* (1) we may say: "However precious the personal liberty of the subject may be, there is something for which it may well be, to some extent, sacrificed by legal enactment, namely, national success in the war, or escape from national plunder or enslavement."

For all these reasons we do not see our way to interfere with the order of detention passed by the Commissioner of Police. The application is dismissed.

---

(1) (1917) A.C. 260 at p. 271.