

# ILLUSTRATED CASES OF THE SUPREME COURT OF INDIA



*Landmark judgments which have influenced the public discourse,  
inspired generations and contributed to access to justice.*

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## ABOUT THE PROJECT

The Supreme Court of India has pioneered some landmark judgments in the area of constitutional law, environmental law, labour reform, gender and sexuality, issues of public duty, child rights and many others.

These judgments have influenced the public discourse, have inspired generations of lawyers, reformers and activists and have contributed to access to justice for the last person.

The purpose of this project is to translate and produce cases summaries that support and explain issues that impact the everyday life of citizens when they resolve their common justice problems.

Through this collection, Justice Adda with the support of Manupatra have attempted to highlight the key issues at stake through a series of simplified texts and illustrations in the hope that the language of the Court could be transformed into one that can be understandable and useful for citizens interested in learning about their rights and entitlements

## ABOUT JUSTICE ADDA

Justice Adda is a social venture that seeks to provide a space where design and technology enable the development of content that helps to improve access to justice in India. Justice Adda was incubated at the Cambridge Social Ventures Programme at Cambridge Judge Business School from 2016- 17.

## ABOUT MANUPATRA

Manupatra is India's leading online legal research platform that has reinvented legal research by providing intuitive and smarter legal analysis tools along with access to a comprehensive legal information aggregator. It aims to make opportunities for research efficient and accessible for everyone.

## TEAM

This series of cases have been edited and illustrated by Siddharth Peter de Souza, Shefali Cordeiro, Rhea Lopez , Aparna Mehrotra and Vatsala Pandey.

## ACKNOWLEDGMENTS

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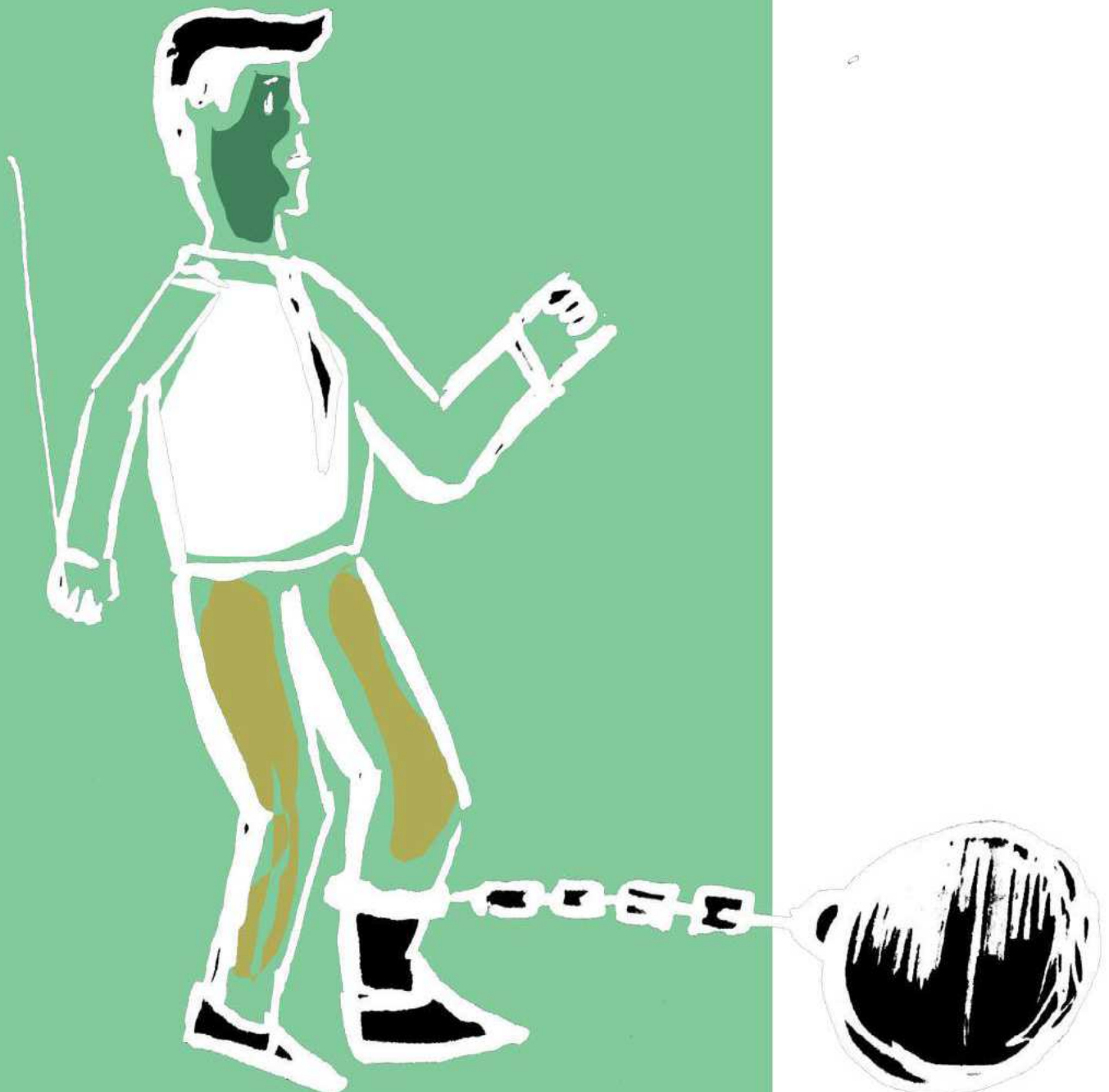


# **A.K Gopalan**

## **vs.**

# **State of Madras**

MANU/SC/0012/1950

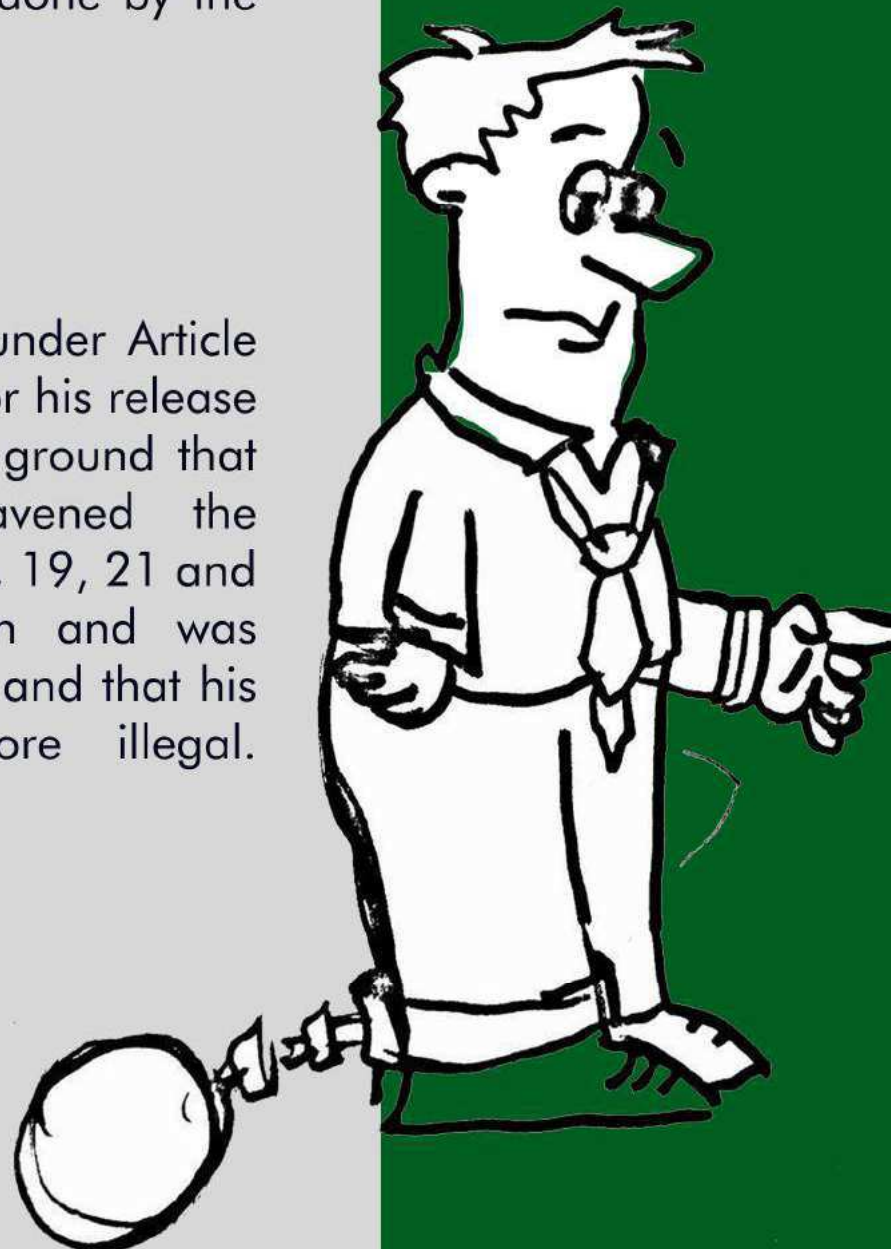


# FACTS

The petitioner was detained under the Preventive Detention Act (Act IV of 1950).

In this act, an action is taken beforehand to prevent possible commitment of a crime. Preventive detention thus is action taken on grounds of suspicion that some wrong actions may be done by the person concerned.

The petitioner applied under Article 32 of the Constitution for his release from detention, on the ground that the said Act contravened the provisions of Articles 13, 19, 21 and 22 of the Constitution and was consequently ultra vires and that his detention was therefore illegal.





## QUESTIONS OF LAW

Whether the Preventive Detention Act, 1950 violates the fundamental rights guaranteed under the following Articles

- 13 (laws inconsistent with or in derogation of fundamental rights),
- 19 (right to freedom),
- 21 (right to life and liberty)
- 22 (protection against arrest and detention) of the Constitution and is therefore void?

## HELD

- The Court held that the Preventive Detention Act does not abridge the detainee's right to freedom guaranteed under the provisions of Article 19 of the Constitution.
- Delinking Article 19 from Article 21, the court held that the protection given by Article 21 is more general in nature; while Article 19 gives rights specifically only to the citizens of India while Article 21 is applicable to all persons. Reinterpreting Article 21, the Court said that the words "procedure established by law" in Article 21 are different from "due process" as mentioned in the United States Constitution in a similar provision.

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Thirdly, the Court said that Article 22 empowers the Parliament to legislate on the subject of preventive detention. Clauses 4 to 7 of the same Article put certain limitations on laws relating to preventive detention.



Any procedure prescribed under any validly enacted law cannot be held void till the time it does not come in conflict with Article 22 (4) to (7).

In conclusion, the Court held that Articles 19, 21 and 22 are mutually exclusive and Article 19 was not to be applied to a law affecting personal liberty to which Article 21 applies.



A law that affected life and personal liberty could not be declared unconstitutional only on account that it did not follow due process or lacked principles of natural justice. This meant that Article 21, provided no protection against competent legislative action



# I . C . GOLAKNATH Vs STATE OF PUNJAB

MANU/SC/0029/1967



# FACTS

The Golaknath family had 500 acres of farmland of which the Government held they could keep only a particular amount according to the Punjab Security and Land Tenure Act 1953. The family filed a petition under Article 32 of the Indian Constitution on the grounds that their fundamental rights to acquire property and practice any profession under Article 19 were denied and that the amendment placing the Punjab Act in the schedule was ultra vires.





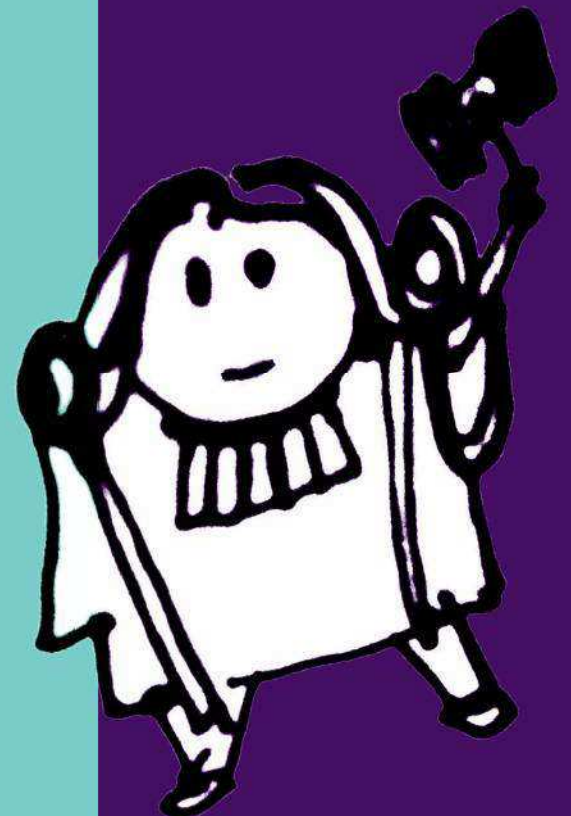
## QUESTIONS OF LAW

- Whether an Amendment is a “law” under the meaning of Article 13(2), which prohibits laws that infringe fundamental rights?
- Whether fundamental Rights can be amended or not?

## HELD

Article 368 of the Constitution merely contains the amending procedure. The amending power of the Parliament emanates from the provisions of Articles 245, 246 and 248, which give it the power to make laws.

Every amendment is a law, and is supposed to pass the test of validity contained in Article 13(2) of the Constitution. An amendment that takes away or abridges fundamental rights is thus void.





The Court held that "fundamental rights are the primordial rights necessary for the development of human personality. They are the rights which enable a man to chalk out his own life in the manner he likes best. Our Constitution, in addition to the well-known fundamental rights, also included the rights of the minorities, untouchables and other backward communities, in such rights. After having declared the fundamental rights, our Constitution says that all laws in force in the territory of India immediately before the commencement of the Constitution, insofar as they are inconsistent with the said rights, are, to the extent of such inconsistency, void. The Constitution also enjoins the State not to make any law which takes away or abridges the said rights and declares such laws, to the extent of such inconsistency, to be void. As we have stated earlier, the only limitation on the freedom enshrined in Art. 19 of the Constitution is that imposed by a valid law operating as a reasonable restriction in the interests of the public. It will, therefore, be seen that fundamental rights are given a transcendental position under our Constitution and are kept beyond the reach of Parliament."

