



H.C.P(MD)No.58 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 13.07.2023

CORAM :

THE HONOURABLE MR JUSTICE M.S.RAMESH
AND
THE HONOURABLE MR JUSTICE M.NIRMAL KUMAR

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A.John Mohan

.. Petitioner

VS.

1.State of Tamil Nadu,
Rep. by the Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 9.

2.The District Collector and District Magistrate,
Kanyakumari District, Nagercoil.

3.The Superintendent of Prison,
Central Prison, Palayamkottai,
Tirunelveli.

... Respondents

PRAYER: Petition under Article 226 of the Constitution of India praying to issue a writ of habeas corpus calling for the entire records, connected with the detention order of the second respondent in P.D.No.64/2022 dated 30.09.2022 and quash the same and direct the respondents to produce the body or person of the detenu, the petitioner's son, namely, Robert Singh @ Robert, S/o.John Mohan, aged about 22 years, now detained at Central Prison, Palayamkottai before this Court and set him at liberty forthwith.



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For Petitioner : Mr.N.Pragalathan
For Respondents : Mr.A.Thiruvadi Kumar,
Additional Public Prosecutor

ORDER

[Order of the Court was made by M.S.RAMESH, J.]

The petitioner is the father of the detenu viz., Robert Singh @ Robert, S/o.John Mohan, aged about 22 years. The detenu has been detained by the second respondent by order in P.D.No.64/2022 dated 30.09.2022 holding him to be a 'Goonda', as contemplated under Section 2(f) of Tamil Nadu Act 14 of 1982. The said order is under challenge in this Habeas Corpus Petition.

2. We have heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondents. We have also perused the records produced by the Detaining Authority.

3. Though several grounds have been raised in the Habeas Corpus Petition, the learned counsel appearing for the petitioner would mainly



focus his argument on the ground that there is discrepancy in Tamil and English versions of the detention order and on that sole ground, the detention order is liable to be quashed.

4. Though counter has not been filed, the learned Additional Public Prosecutor strongly opposed the present Habeas Corpus Petition.

5. In the Tamil version of the detention order, it is stated that the crime committed by the detenu has caused fear and panic in the minds of the public and that since the crime was reported in the daily newspapers, it has caused disturbance and fear in the minds of the public. The relevant portion of the Tamil version of the detention order reads as follows.

“எதிரி திரு,ராபர்ட் சிங் என்ற ராபர்ட் மற்றும் அவரது நெருங்கிய கூட்டாளியும் கொடிய ஆயுதங்களைக் காட்டி பொது நபரை கொலை செய்ய முயற்சித்த செயல் பொதுமக்கள் மனதில் பயத்தையும் பீதியையும் ஏற்படுத்தி, பொது அமைதியையும், பொது ஒழுங்கையும் சீர்குலைத்துள்ளது. இச்சம்பவம் செய்தித்தாள்களில் பிரசுரிக்கப்பட்டு, பொதுமக்கள் மனதில் கலக்கத்தை ஏற்படுத்தியுள்ளது.”



6. Whereas, in the English version of the detention order, there is a improper translation, which reads as follows.

“The criminal act of the accused Thiru.Robert Singh @ Robert and his close associate in committing the offence of attempting to murder a public by showing deadly weapon creates a fear and panic in the minds of general public and disturbed the public peace and public order and it also caused disturbance and fear in the mind of public.”

7. The Hon'ble Supreme Court of India in the case of *Union of India and Another vs. Shantaram Gajanan Kanekar and Another*, reported in *1994 Supp(2) SCC 571*, had held that such discrepancy in two versions of the detention order would be fatal to the detention order. The relevant portion of the order reads as follows.

“2...The principal objection raised on behalf of the detenu before the High Court was that the Marathi version of the declaration under Section 9(1) of the Act did not tally with its



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counterpart in English and due to that defect, the detenu was prevented from making an effective representation under Article 22(5) of the Constitution. The High Court, on facts, found that the two versions of the declaration did not tally with each other. The High Court found that the translated version of the declaration under Section 9(1) of the Act was defective and opined that it was not possible for the detenu to make an effective representation. The order of detention was, therefore, quashed.

3.In the facts and circumstances of the case, the view taken by the High Court is unexceptionable and we do not find any reason to interfere. The appeal is dismissed.”

8. In view of such improper versions, the subjective satisfaction arrived at by the detaining authority for passing the detention order cannot be legally sustained.



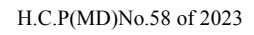
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9. In the result, the Habeas Corpus Petition is allowed and the order of detention in P.D.No.64/2022 dated 30.09.2022 passed by the second respondent is set aside. The detenu, viz., Robert Singh @ Robert, S/o.John Mohan, aged about 22 years, is directed to be released forthwith unless his detention is required in connection with any other case.

(M.S.R., J.) (M.N.K., J.)
13.07.2023

NCC : Yes/No
Index : Yes/No
Speaking/Non-speaking order
mbi
To

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 9.
- 2.The District Collector and District Magistrate,
Kanyakumari District, Nagercoil.
- 3.The Superintendent of Prison,
Central Prison, Palayamkottai,
Tirunelveli.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.


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