



HCP(MD)No.1699 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 20.04.2023

CORAM

The Honourable Mr. Justice **R.SURESH KUMAR**
and
The Honourable Mr. Justice **K.K.RAMAKRISHNAN**

H.C.P.(MD)Nos.1699, 1701, 1704 to 1707 of 2022

HCP(MD) No.1699/2022

Rani

.. Petitioner

Vs.

The State rep by,

1.The Additional Chief Secretary to Government,
Home, Prohibition and Exercise (XVI) Department,
Secretariat, Chennai-9.

2.The District Magistrate and District Collector,
Thanjavur District,
Thanjavur.

3.The Superintendent of Prison,
Central Prison,
Tiruchirappalli District.

.. Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus calling for the entire records, pertaining to the detention order passed by the second respondent in P.D.No.92/2022 dated 31.07.2022 and quash the same and direct the respondents to produce the body or person of the detenue by name Manikandan son of Karnan, aged



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about 27 years, now detained as "Goonda" at Tiruchirappalli, Central Prison before this Court and set him at liberty forthwith.

For Petitioner : Mr.V.Vishnu

For Respondents : Mr.A.Thiruvadi Kumar
Additional Public Prosecutor

COMMON ORDER

[Order of the Court was made by **R.SURESH KUMAR, J.**]

The detenus have been detained by the second respondent by his order dated 31.07.2022 holding them to be "Goondas", as contemplated under Section 2(f) of Tamil Nadu Act 14 of 1982. The said orders are under challenge in these Habeas Corpus Petitions.

2. These Habeas Corpus Petitions had been filed on behalf of the detenus in the respective cases, where in respect of detenus in HCP (MD) Nos.1701, 1704 and 1707/2022 are concerned, it is a solitary case, which had been shown as a ground case, whereas in respect of other Habeas Corpus Petitions, in respect of the detenus respectively, there is atleast one adverse case against them, wherein, the detenu in HCP Nos.1699 and 1706/2022 are concerned, those detenus are co-accused in the adverse cases.



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Insofar as the detenu in HCP No.1705/2022 is concerned, in the adverse case, the alleged offence was under Section 397 IPC.

3. Insofar as the ground case is concerned, the offences punishable are under Sections 147, 148, 342 and 302 IPC in Crime No.326/2022 on the file of the Kumbakonam East Police Station.

4. We have heard the learned counsel for the petitioners and the learned Additional Public Prosecutor for the respondents.

5. Insofar as the subjective satisfaction, as has been expressed by the detaining authority is concerned, the detaining authority has stated in the grounds of detention that there is a possibility of these detenus coming out on bail by filing bail petitions on the ground case before the appropriate Court and in similar cases already bail had been granted by the Courts and if they come out on bail, they will indulge in further activities, which will be prejudicial to the public order and public peace.

6. The detaining authority also stated that by committing the said



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crime, in the ground case in the public place, the detenus had created fear and feel of insecurity in the minds of the public in that area and had acted in a manner prejudicial to the maintenance of public order and public tranquillity.

7. Insofar as the subjective satisfaction is concerned, maintaining of public order is something different from maintaining of law and order, as the law and order is disturbed, it may lead to public disorder.

8. But, at the same time, every breach of peace does not lead to public disorder.

9. The law enforcing agency is empowered to maintain law and order under the powers vest in them and insofar as these kind of alleged offences, like the present one ie., murder punishable under Section 302 IPC is concerned, we must look into the reason and motive as attributed by the prosecution and also whether pursuant to such an alleged offence, based on its propensity, whether the people at large in that locality has been shattered or shaken or they have been creating any fluttering in the minds of the



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people in the locality, by thus, the strict maintenance of public order would be at stake, have to be looked into.

10. Here, in the case in hand, even according to the respondents, the place of occurrence, if we look at is a remote place, where there is no much habitation seems to have been available and therefore, it cannot be stated that it is public place with busy locality.

11. Moreover, in every case of murder allegedly taken place, all those accused, who involved allegedly in those murder cases, need not be branded as Goonda within the meaning of Section 2(f) of Act 14 of 1982.

12. In this context, for three out of six detenus, there has been no previous or adverse cases and the ground the case itself is a solitary case. Therefore, it cannot be treated that they had already involved in such criminal activities. Assuming that other three out of 6 detenus are concerned, there are adverse cases, ie., one adverse case each, which are pending against those detenus that will not *ipso facto* paved a way for the detaining authority to come to the irresistible conclusion by way of



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subjective satisfaction that if Act 14 of 1982 is not slapped against these detenus that will make prejudice to the maintenance of public order in that locality.

13. In order to have this kind of subjective satisfaction, satisfactory materials must be made available before the detaining authority by the sponsoring authority and having gone through the materials placed before this Court, we are of the considered view that such a subjective satisfaction expressed by the detaining authority in all these cases are with the routine thing and usual reasons. Therefore, taking into consideration all the circumstances of the case, we feel that the subjective satisfaction expressed by the detaining authority cannot be approved for the purpose of sustaining the impugned detention order in respect of these six detenus covered under the batch of cases.

14. In the result, the Habeas Corpus Petitions are allowed and the order of detentions in P.D. Nos.91, 92,93, 94, 95 and 96 of 2022, dated 31.07.2022 passed by the second respondent are set aside. The detenus, viz., Deena @ Deenadhayalan, S/o.Karnan, aged 28 years, Manikandan,



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S/o.Karnan, aged 27 years; Sibiraj, S/o.Selvaraj, aged 19 years, Hulk @ Karthi, S/o.Ganesan, aged 21 years, Ulli @ Santhoshkumar, S/o.Balaguru, aged about 23 years and Vijayakumar, S/o.Selvaraj aged 22 years, are directed to be released forthwith unless their detentions are required in connection with any other cases.

(R.S.K.,J.) (K.K.R.K.,J.)
20.04.2023

Index : Yes/No

Internet : Yes

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To

- 1.The Additional Chief Secretary to Government,
Home, Prohibition and Exercise (XVI) Department,
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- 2.The District Magistrate and District Collector,
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Thanjavur.
- 3.The Superintendent of Prison,
Central Prison,
Tiruchirappalli District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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