

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.04.2015

CORAM

THE HONOURABLE DR. JUSTICE S.TAMILVANAN
and
THE HONOURABLE MR. JUSTICE B.RAJENDRAN

H.C.P.No.104 of 2015

Sathya

.. Petitioner

Vs.

1.The Secretary to Government of India
Ministry of Consumer Affairs
Foods and Public Distribution
(Department of Consumer Affairs)
Room No.270, "Krishi Bhavan"
New Delhi-110 001.

2.The State of Tamil Nadu
Rep. by the Secretary to Government
Co-operation Food and Consumer
Protection Department
Secretariat, Chennai 600 009.

3.The District Collector and District Magistrate
Vellore District at Vellore .

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Habeas Corpus calling for the entire records in connection with the order of detention passed by the 3rd respondent dated 21.12.2014 in C3.D.O.No.107/2014, against the petitioner's husband Palani, aged about 21 years, S/o.Muniyandi @ Meesai Muniyandi @ Venkatesh, who is confined at Borstal School, Pudukottai, and set aside the same and direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner : M/s.A.Rajesh Kanna

For Respondent 1 : Mr.S.Arockiam
Central Government Standing
Counsel

For Respondents 2 and 3 : Mr.M.Maharaja
Addl.Public Prosecutor

ORDER

[Order of the Court is made by S.TAMILVANAN, J.]

Challenge is made to the order of detention passed by the third respondent dated 21.12.2014 in C3.D.O.No.107/2014, whereby the detenu/husband of the petitioner, by name, Palani, aged about 21 years, S/o.Muniyandi @ Meesai Muniyandi @ Venkatesh, was ordered to be detained under the provisions of the Prevention of Black Marketing and Maintenance of Supplies of Essential Commodities Act, 1980 (Act No.7 of 1980) branding him as a "Black Marketer".

2.Though many grounds have been raised in the petition, Mr.A.Rajesh Kanna, the learned counsel appearing for the petitioner, confines his argument only in respect of non-application of mind on the part of the detaining authority in passing the order of detention.

3.Mr.A.Rajesh Kanna, the learned counsel appearing for the petitioner submitted that page Nos.118, 119, 120, 121, 122, 194, 195, 196, 197, 201, 202 and 246 and certain other pages in the booklet furnished to the detenu are illegible and could not be read at all. These illegible copies would deprive the detenu of making effective representation to the authorities against the order of detention. Thus, the detention order is vitiated on this grounds and the same is liable to be quashed.

4.Per contra, Mr.S.Arockiam, the learned Central Government Standing Counsel would submit that the order of detention has been passed on cogent and sufficient materials and the same cannot be interfered with at the instance of the petitioner. Therefore, he submits that the Habeas Corpus Petition does not merit any consideration and the same is liable to be dismissed.

5.We have heard the learned counsel for both sides with regard to the facts.

6.A perusal of the booklet supplied to the detenu would show that the copies of documents referred and relied upon and referred to by the Detaining Authority, in particular, page Nos. Nos. 118, 119, 120, 121, 122, 194, 195, 196, 197, 201, 202 and 246 and etc., are illegible and are totally unreadable. This has resulted in the detenu being deprived of making an effective representation. Therefore, the detention order is vitiated and liable to be quashed on this ground alone.

7.It is a trite law that personal liberty protected under Article 21 is so sacrosanct and so high in the scale of Constitutional values that it is the obligation of the detaining authority to show that the impugned detention meticulously accords with the procedure established by law. Preventive detention is

preventive and not punitive. When ordinary law of the land is sufficient to deal with, taking recourse to the preventive detention law is illegal.

8. In the light of the above facts and law, we have no hesitation in quashing the order of detention on the above mentioned ground.

9. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order in C3.D.O.No.107/2014, dated 21.12.2014 passed by the third respondent is set aside. The detenu is directed to be released forthwith unless his presence is required in connection with any other case.

Sd/-

Assistant Registrar

True Copy

Sub Assistant Registrar

To

1. The Secretary to Government of India
Ministry of Consumer Affairs
Foods and Public Distribution
(Department of Consumer Affairs)
Room No.270, "Krishi Bhavan"
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Co-operation Food and Consumer
Protection Department
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3. The District Collector and District Magistrate
Vellore District at Vellore .
4. The Superintendent of Central Prison
Borstal School, Pudukottai.
5. The Joint Secretary to Government,
Public (L&O) Fort St. George, Chennai.
6. The Public Prosecutor,
High Court, Madras.

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