

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.08.2015

CORAM

THE HONOURABLE DR.JUSTICE S.TAMILVANAN
and
THE HONOURABLE MR.JUSTICE C.T.SELVAM

H.C.P. No.1090 of 2015

K.Nithiya

.. Petitioner

Vs.

1.The State of Tamil Nadu,
rep. by its Secretary,
Home, Prohibition & Excise Department,
Fort St. George, Chennai 600 009.

2.The Commissioner of Police,
Vepery, Chennai - 7.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of habeas corpus to call for the records made in Memo No.314/BCDFGISSSV/2015 dated 10.04.2015 passed by the second respondent herein and quash the same as illegal and direct the respondent to produce the detenu Dominic Xavier @ Dominic, son of John Sundarraaj, aged 32 years before this Court and now confined at Central Prison, Vellore and set him at liberty.

For Petitioner : Mr.R.Sankarasubbu

For Respondents : Mr.M.Maharaja, APP

ORDER

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

Challenge is made to the order of detention passed by the second respondent vide Proceedings in Memo No.314/BCDFGISSSV/2015, dated 10.04.2015 whereby the detenu, by name, Dominic Xavier @ Dominic, S/o.John Sundarraaj, aged about 32 years, was ordered to be detained under the provisions of the Tamil Nadu Prevention of Dangerous

Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Slum-grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982) branding him as a "Goonda".

2. Though many grounds have been raised in the petition, 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. Learned counsel appearing for the petitioner submitted that in the booklet, furnished to the detenu, several pages were found to be illegible and could not be read at all. This 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 these grounds and the same is liable to be quashed.

4. Per contra, the learned Additional Public Prosecutor 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 several copies of documents referred and relied upon 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. In the result, this Habeas Corpus Petition is allowed. The impugned detention order 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(CS III)

//True Copy//

To Sub Assistant Registrar

1. The State of Tamil Nadu,
rep. by its Secretary,
Home, Prohibition & Excise Department,
Fort St. George, Chennai 600 009.
2. The Commissioner of Police,
Vepery, Chennai - 7.
3. The Public Prosecutor,
High Court, Madras.
4. The Superintendent,
Central Prison, Vellore.
5. The Joint Secretary to Govt. public (Law & Order) Dept,
Fort, St, George, Chennai.

सत्यमेव जयते

H.C.P. No.1090 of 2015

ksj(co)
cp 07/09/2015

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