

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.06.2015

CORAM

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

H.C.P.No.123/2015

Vignesh @ Vigneshwaramoorthy

.. Petitioner

Vs.

1.The Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai-600 009.

2.The District Collector and District Magistrate,
Coimbatore.

.. Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Habeas Corpus to call for the records in connection with the order of detention passed by the second respondent dated 03.11.2014, Cr.M.P. No.51/G/2014/E1, against the petitioner Vignesh @ Vigneshwaramoorthy, son of Mayilsamy Gounder, aged about 31 years, who is confined at Central Prison, Coimbatore and to set aside the same and to direct the respondents to produce the detenu before this Court and to set him at liberty.

For petitioner : Mr.V.Paarthiban

For respondents : Mr.M.Maharaja

Additional Public Prosecutor

O R D E R

[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 Cr.M.P. No.51/G/2014/E1 dated 03.11.2014, whereby the detenu/the petitioner by name, Vignesh @ Vigneshwaramoorthy, son of Mayilsamy Gounder, aged about 31 years, was ordered to be detained under the provisions of 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, Mr.V.Paarthiban, 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 there is no reference about any similar case. But the detaining authority arrived at the subjective satisfaction that if the detenu comes out on bail, he will indulge in such further activities, which will be prejudicial to the maintenance of public order and public peace. This is indicative of the non-application of mind on the part of the Detaining Authority and hence, submitted that the detention order is vitiated 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 and citation.

6.A perusal of para 5 of the detention order would reveal that the second bail petition filed in the ground case before this Court was pending as on the date of passing of the detention order and without referring to any similar case or without referring to the case of any of the co-accused of the detenu, the detaining authority has straight away arrived at the subjective satisfaction that "if he comes out on bail, he will indulge in such further activities, which will be prejudicial to the maintenance of public order and public peace". Hence, the Detaining Authority has passed the Detention order in total non-application of mind which would vitiate the detention order.

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 grounds.

9.Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order passed by the second 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 the Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai-600 009.

2.The District Collector and District Magistrate,
Coimbatore.

3.The Public Prosecutor,
High Court, Madras.

4.The Superintendent of Central Prison,
Coimbatore.

5.The Joint Secretary to Government,
Public (L&O) Fort st.George, Chennai.

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