

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.09.2015

CORAM

THE HONOURABLE DR.JUSTICE S.TAMILVANAN

AND

THE HONOURABLE MR.JUSTICE C.T.SELVAM

H.C.P. NO.1582 OF 2015

Ambika

.. Petitioner

Vs.

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

2. The Commissioner of Police,
Chennai Police,
Egmore, Chennai - 600 008.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for a Writ of Habeas Corpus, calling for the records pertaining to the detention order passed against the detenu by the 2nd respondent in BCDFGISSSV. No.401/2015 dated 15.05.2015 setting aside the same directing the respondents to produce the body of the detenu, viz., Sumalatha, aged 47 years, wife of Murali, now detained at Special Prison for Women, Puzhal, Chennai, before this Court and set her at liberty.

For Petitioner : Mr.V.Ganesh

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 Memo No.BCDFGISSSV.No.401/2015 dated 15.05.2015 whereby the detenu/the aunt of the petitioner herein, by name, Sumalatha, wife of Murali, aged about 47 years, was ordered to be detained under the provisions of the Tamilnadu Prevention of Dangerous Activities of Bootleggers, Cyber Law Offenders, Drug Offenders, Forest

Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Sexual Offenders, Slum Grabbers and Video Pirates Act, 1982 [Tamilnadu Act 14 of 1982] branding her as a "GOONDA".

2. Though many grounds have been raised in the petition, Mr.V.Ganesh, 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 page Nos.23, 34 and 40 and certain other pages in the booklet furnished to the detinue are illegible and could not be read at all. This illegible copies would deprive the detinue 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 detinue would show that the copies of documents referred and relied upon and referred to by the Detaining Authority, in particular, page Nos.23, 34 and 40 are illegible and are totally unreadable. This has resulted in the detinue 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 passed by the second respondent is set aside. The detinue is directed to be released forthwith unless his presence is required in connection with any other case.

10. In the result, this Habeas Corpus Petition is allowed. The impugned detention order is set aside. The detainee is directed to be released forthwith, unless her presence is required in connection with any other case.

sri

Sd/-
Assistant Registrar (Judicial)

/True Copy/

Sub-Assistant Registrar

To

1. The Secretary to Government (Home),
Prohibition and Excise Department,
Secretariat,
Chennai - 600 009.
2. The Commissioner of Police,
Chennai Police,
Egmore, Chennai - 600 008.
3. The Superintendent,
Special Prison for Women,
Puzhal, Chennai.
4. The Public Prosecutor
High Court, Madras.
5. The Joint Secretary to Government
Public (Law and Order) Fort Saint
George, Chennai - 600 009.

H.C.P. NO.1582 OF 2015

VSN(CO)
sd : 20/10/2015

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