

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.10.2015

CORAM

THE HONOURABLE DR. JUSTICE S.TAMILVANAN
and
THE HONOURABLE MR. JUSTICE C.T.SELVAM
H.C.P.No.1673 of 2015

Kavitha
W/o.Kathirappan

.. Petitioner

Vs.

1. The District Collector and District Magistrate,
Vellore District,
Vellore-9.

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

.. 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 of the first respondent herein in C3.D.O.No.51 of 2015, dated 11.05.2015 and set aside the same and direct the respondents herein to produce the detenu, namely Balaji (his real name is Kathirappan), male, age 30, son of Thimma Naidu, who is now confined in Central Prison, Vellore, before this Court and set him at liberty forthwith.

For Petitioner : Mr.G.Vinothkumar for
M/s.K.S.Rajagopalan

For Respondents : Mr.M.Maharaja,APP

ORDER

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

Petitioner is the wife of the detenu, who has been branded as a "Bootlegger" under the Tamil Nadu Act 14 of 1982 and detained under order of the first respondent passed in No.C3.D.O.No.5/2015 dated 11.05.2015.

2. The detenu came to adverse notice in the following cases:-

Sr.No.	Police Station and Crime No.	Sections of Law
1.	Vaniyambadi Prohibition Enforcement Wing Crime No.114/2015	4(1)(g) TNP Act, 1937 (Act 10/1937)
2.	Vaniyambadi Prohibition Enforcement Wing Crime No.142/2015	4(1)(g) TNP Act, 1937 (Act 10/1937)
3.	Vaniyambadi Prohibition Enforcement Wing Crime No.164/2015	4(1)(G) TNP Act, 1937 (Act 10/1937)

The alleged ground case has been registered against the detenu on 16.04.2015 by the Inspector of Police, Vaniyambadi Prohibition Enforcement Wing in Crime No.204/2015 for offences under Sections 4(1)aaa, 4(1-A)ii of Tamil Nadu Prohibition Act, 1937 r/w.328 IPC. Aggrieved by the order of detention, the present petition has been filed.

3. Learned counsel for the petitioner points out the discrepancy between English and Tamil version (page Nos.27 and 28) in respect of the remand order of

the detenu dated 16.4.2015 furnished in the booklet and informs that the same has adversely affected his right of making an effective representation.

4. We have heard learned Additional Public Prosecutor on the above submissions.

5. When there is a variation between English and Tamil version in respect of the remand order, opportunity of clear understanding and making effective representation under Article 22(5) of the Constitution of India, on such understanding is lost and the detenu is deprived thereof. This would vitiate the order of detention. For the aforesaid reasons, this Court would allow the present petition.

Accordingly, the Habeas Corpus Petition is allowed and 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.

(S.T.,J.) (C.T.S.,J.)
26.10.2015

Index:yes/no
Internet:yes
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S.TAMILVANAN,J.
AND
C.T.SELVAM, J.

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To

1. The District Collector and District Magistrate,
Vellore District,
Vellore-9.
2. The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai-600 009.
3. The Public Prosecutor,
High Court, Madras.
4. The Superintendent of Central Prison
Vellore.

H.C.P.No.1673 of 2015

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