

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.09.2015

C O R A M

THE HONOURABLE MR.JUSTICE B.RAJENDRAN

AND

THE HONOURABLE MR.JUSTICE C.T.SELVAM

Habeas Corpus Petition No.1764 of 2015

S.Fasila

W/o.Shagul Hameed

... Petitioner

-vs-

1. The Secretary to Government,
Food and Consumer Protection Department,
2nd Floor, Namakkal Kavingar Maligai,
Secretariat, Chennai - 9.
2. The District Collector and District Magistrate,
Thiruvannamalai District,
Thiruvannamalai.
3. The Additional Secretary to Government of India,
Department of Consumer Affairs,
Room No.270, Krishi Bhavan,
New Delhi - 110 001.

... Respondents

Writ petition under Article 226 of the Constitution of India filed praying for issuance of a writ of Habeas Corpus to call for the records relating to the order passed by second respondent against the detenu Shahul Hameed S/o.Hussain, aged about 37 years, in D.O.No.28/2015-C2 dated 11.05.2015, quash the same and consequently to direct the respondents to produce the detenu, who is confined at Central Prison, Vellore, before this Court and set him at liberty.

For Petitioner :Mr.V.Paarthiban

For Respondents:Mr.M.Maharaja,

Additional Public Prosecutor [R1 & R2]

Mr.D.Ramesh Kumar,

Central Government Standing Counsel [R3]

O R D E R

(The order of the Court was made by C.T.SELVAM, J.)

Petitioner is the wife of the detenu Shahul Hameed S/o. Hussain, who has been branded as "Black Marketer" under the

Act 7 of 1980 and detained under orders of second respondent passed in D.O.No.28/2015-C2 dated 11.05.2015. Such order is under challenge herein.

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

S1.No.	Police Station and Crime No.	Sections of Law
1	CS CID, Kancheepuram Unit, Crime No.13 of 2015	6(4) TNSC (RDCS) Order 1982 r/w 7(1)(a)(ii) E.C.Act,1955.

The ground case has been registered against the detenu in Crime No.50 of 2015 on the file of CS CID, Tiruvannamalai, for offences u/s.6(4) TNSC (RDCS) Order 1982 r/w 7(1)(a)(ii) E.C.Act,1955.

3. Learned counsel for petitioner submits that the detenu has moved bail application in the ground case before learned Judicial Magistrate I, Tiruvannamalai and the same was dismissed under orders dated 08.05.2015. As against the English copy thereof informing the objection to grant of bail as owing to the pendency of the investigation, the Tamil translation informs that the detenu would tamper with the witnesses. Learned counsel informs that the same adversely has 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, 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.

This Habeas Corpus Petition is allowed. The impugned order passed by second respondent against the detenu Shahul Hameed S/o.Hussain, made in D.O.No.28/2015-C2 dated 11.05.2015, is quashed. The detenu is ordered to be set at liberty forthwith, unless his custody is required in connection with any other case.

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-Sd/-

Assistant Registrar(cs-II)

//True copy//

Sub Assistant Registrar

gm

To

1. The Secretary to Government,
Food and Consumer Protection Department,
2nd Floor, Namakkal Kavingar Maligai,
Secretariat, Chennai - 9.
 2. The District Collector and District Magistrate,
Thiruvannamalai District,
Thiruvannamalai.
 3. The Additional Secretary to Government of India,
Department of Consumer Affairs,
Room No.270, Krishi Bhavan,
New Delhi - 110 001.
 4. The Public Prosecutor
High Court, Chennai.
 5. The Superintendent of Central Prison,
Vellore.
 6. The Joint secretary, the Government of TamilNadu
Public (Law&Order)
Fort St.George,
chennai.9
- +1 cc to Mr.D.RameshKumar,Advocate(sr.49361)

Ksj (co)
cp 07/10/2015

H.C.P.No.1764 of 2015

सत्यमेव जयते

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