

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.07.2015

CORAM

THE HONOURABLE DR.JUSTICE S.TAMILVANAN

and

THE HONOURABLE MR.JUSTICE C.T.SELVAM

H.C.P.No.288 of 2015

Rajamani

.. Petitioner/
Mother of the detenu

Vs.

1.The State of Tamilnadu rep.
By The Secretary to Government
Home, Prohibition & Excise Department
Fort st.George, Chennai 600 009.

2.The City Commissioner of Police,
Salem City,
Slem District.

...Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of habeas corpus calling for the records in connection with the order of detention passed by the 2nd respondent dated 12.01.2015 in C.M.P.No.4/Goonda/Salem City/2015 against the petitioner's son, Mani @ Panneerselvam, Male, aged 25 years son of Jeyaraj, who is confined at Central Prison, Salem, and set aside the same and direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner : Ms.L.Srilekha

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 C.M.P.No.4/Goonda/Salem City/2015 dated 12.01.2015, whereby the detenu/the son of the petitioner herein, by name, Mani @ Panneerselvam, Son of Jeyaraj, Male, aged 25 years, was ordered to be detained under the provisions of the Tamil

Nadu 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 (Tamil Nadu Act 14 of 1982) branding him as a "GOONDA".

2. Though many grounds have been raised in the petition, Ms.L.Srilekha, the learned counsel appearing for the petitioner, confines her 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 No.180 in the booklet furnished to the detenu is illegible and could not be read at all. This illegible copy would deprive the detenu from making effective representation to the authorities against the order of detention. Thus, the detention order is vitiated on this ground 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 copy of document referred to and relied on by the Detaining Authority, in particular, page No.180, the complaint given by one K.Ganesan, in respect of Crime No.607 of 2014, is illegible and 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. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order passed by the 2nd respondent dated 12.01.2015 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 Government
Home, Prohibition & Excise Department
Fort st.George, Chennai 600 009.
2. The City Commissioner of Police,
Salem City,
Slem District.
3. The Public Prosecutor,
High Court, Madras.
4. The Joint secretary to Government public (Law & Order)
Fort saint George, Chennai-9
5. The public prosecutor,
High court, Madras.

SR(co)
cp07.08.2015

H.C.P.No.288 of 2015

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