

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 14.07.2015

Coram

THE HON'BLE DR.JUSTICE S.TAMILVANAN
and
THE HON'BLE MR.JUSTICE C.T.SELVAM

H.C.P.No.426/2015

Divya

...Petitioner

-vs-

1.State of Tamil Nadu,
rep. by its Secretary to Government
Home, Prohibition & Excise Department,
Secretariat, Chennai-600 009.

2.The District Collector & District Magistrate,
Kancheepuram District,
Kancheepuram.

...Respondents

Habeas Corpus Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Habeas Corpus to call for the records pertaining to the detention order passed in Proceedings BCDFGISSSV No.5/2015 dated 23.01.2015 on the file of the second respondent herein and to set aside the same and to direct the respondents herein to produce the detenu Mohankumkar @ Vellai Mohan, son of Elumalai, aged about 27 years, who is confined in Central Prison, Vellore, Chennai, before this Court and to set him at liberty.

For petitioner : Mr.C.C.Chellappan

For Respondents : Mr.M.Maharaja, APP

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 BCDFGISSSV No.5/2015 dated 23.01.2015, whereby the husband of the petitioner by name Mohankumar @ Vellai

Mohan, son of Elumalai, aged about 27 years, was ordered to be detained under the provisions of the 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 the learned counsel for the petitioner has raised several other grounds to assail the order of detention, he mainly focused his arguments on the ground that non application of mind on the part of the detaining authority. Learned counsel for the petitioner contended that the detaining authority instead of furnishing bail order copy in the similar case, referred to in the grounds of detention, has furnished the modified bail order copy to the detenu, which has deprived the detenu in making effective representation to the authorities concerned and therefore, on this sole ground, the detention order is liable to be quashed.

3. We have heard the learned Additional Public Prosecutor on the above submission made by the learned counsel for the petitioner.

4. A perusal of the booklet furnished to the detenu, in particular, page Nos. 133-139 would reveal that the detaining authority has furnished the modified bail order copy to the detenu, instead of furnishing bail order copy in the similar case, referred to in the grounds of detention. This non furnishing of relevant materials to the detenu has deprived him on making effective representation, which amounts to infringement of right ensured under Article 22(5) of the Constitution of India, would vitiate the order of detention.

5. For the aforesaid reason, the impugned detention order passed by the second respondent is quashed and the Habeas Corpus Petition is allowed. The detenu is ordered to be set at liberty forthwith, unless his custody is required in connection with any other case.

Sd/- सत्यमेव जयते
Assistant Registrar(LA)

//True Copy//

Sub Assistant Registrar

vga

To

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

2.The District Collector & District Magistrate,
Kancheepuram District, Kancheepuram.

3.The Superintendent of Central Prison
Vellore.

4. The Joint Secretary to Government,
Public (Law & Order)
Fort St. George, Chennai - 9.

5.The Public Prosecutor
High Court, Madras.

H.C.P.No.426/2015

VD (CO)
PSI (07.08.2015)



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