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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.06.2015

CORAM:

THE HONOURABLE DR.JUSTICE S.TAMILVANAN
AND

THE HONOURABLE MR.JUSTICE C.T.SELVAM

H.C.P.No.52 of 2015

Arokiya Mari

.. Petitioner

Vs

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

2.The Commissioner of Police,
Chennai City.

.. Respondents

Habeas Corpus Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus to call for the records in connection with the order of detention passed by the second respondent dated 16.11.2014 in Memo No.1855/BCDFGISSV/2014 against the petitioner husband Suresh @ Sura, male, aged 23 years, S/o.Rajendran, who is confined at Central Prison, Puzhal II, Chennai and set aside the same and direct the respondents to produce the detenu before the Court and set him at liberty.

For Petitioner : Mr.S.Senthil Vel

For Respondents : Mr.M.Maharaja,
Additional Public Prosecutor

ORDER

(Order of the Court is made by S.TAMILVANAN,J)

Challenge is made to the order of detention passed by the second respondent vide proceedings in No.1855/2014 dated 16.11.2014, whereby the detenu/husband of the petitioner herein, by name, Suresh @ Sura, S/o Rajendran, aged 23 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".

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2. Though many grounds have been raised in the petition, Mr.S.Senthil Vel, 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.247, 249, 267 and 269 in the booklet furnished to the detenu are illegible and could not be read at all. These illegible copies 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 copies of documents referred and relied upon and referred to by the Detaining Authority, in particular, page Nos.247, 249, 267 and 269, are illegible and are 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 of the Constitution of India 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 dated 16.11.2014 passed by the 2nd respondent is set aside. The detenu is directed to be released forthwith unless his presence is required in connection with any other case.

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Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai-600 009.
2. The Commissioner of Police,
Chennai City.
3. The Superintendent of Prison,
Central Prison, Puzhal II, Chennai.
4. The Public Prosecutor,
High Court, Chennai.
5. The Joint Secretary to Government Public (Law & order)
Fort St. George, Chennai.9

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