

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.07.2015

CORAM

THE HONOURABLE MR.JUSTICE S.TAMILVANAN
and
THE HONOURABLE MR.JUSTICE C.T.SELVAM

H.C.P.No.593 of 2015

Nagabusanam Petitioner

vs.

1.The Secretary to the Government
State of Tamil Nadu
Home, Prohibition & Excise Department
Fort St George, Chennai 600 009.

2.The Commissioner of Police
Chennai Police,
Office of the Commissioner of Police (Goonda Section)
Chennai 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 of the detention order made in B.D.F.G.I.S.S.V.No.90/2015 dated 04.02.2015 passed by the Commissioner of Police, Chennai Police, the second respondent herein and set aside the same and direct the respondents to produce the detainee before the Hon'ble Court and set the detainee Thiru Vijay, S/o.Kumar, M/A.22, now confined at Central Prison, Puzhal, Chennai-600 066 at liberty.

For Petitioner

:

Mr.N.Sudharsan

For Respondents

:

Mr.M.Maharaja,A.P.P.

ORDER

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

The petitioner, who is the grandmother of the detenu Vijay, son of Kumar, aged about 22 years, has come forward with this petition challenging the detention order passed by the second respondent dated 04.02.2015 against her grandson branding him as a "Goonda" under 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].

2. Though many grounds have been raised in the petition, Mr.N.Sudharsan, 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.114, 115, 133 and 138 and certain other pages in the booklet furnished to the detenu are illegible and could not be read at all. This illegible copies would deprive the detenu of making effective representation to the authorities against the order of detention. Thus, the detention order is vitiated on these grounds 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 relied upon and referred to by the Detaining Authority, in particular, page Nos.114, 115, 133 and 138 etc., 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 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 in B.D.F.G.I.S.S.V.No.90/2015 dated 04.02.2015 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.

Sd/-

Assistant Registrar

True Copy

Sub Assistant Registrar

msk

To

1. The Secretary to the Government
State of Tamil Nadu
Home, Prohibition & Excise Department
Fort St George, Chennai 600 009.
2. The Commissioner of Police, Chennai Police (Goonda Section)
Egmore, Chennai-08.
3. The Superintendent of Prison,
Puzhal, Central Prison,
Chennai.
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.593/2015

gj (co)
pmk.5.8.2015