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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.06.2015

CORAM:

THE HONOURABLE DR.JUSTICE S.TAMILVANAN
AND

THE HONOURABLE MR.JUSTICE C.T.SELVAM

H.C.P.No.86 of 2015

Mubeena

.. Petitioner

Vs

- 1.The State of Tamil Nadu,
Rep. By its Secretary to Government,
Home, Prohibition and Excise Department
Fort St.George, Chennai-600 009.
- 2.The Commissioner of Police/Detaining Authority,
O/o The Commissioner of Police,
Coimbatore City, Coimbatore.
3. The Addl. Secretary,
Government of India,
Ministry of Consumer Affairs,
Food and Public Distribution,
(Dept. of Consumer Affairs)
Room No.270, Krishni Bhawan,
New Delhi - 110 001.

.. Respondents

Prayer:- This Habeas Corpus Petition is filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus calling for the entire records relating to the petitioner's husband detention under Tamil Nadu Act 14 of 1982 vide detention order dated 31.12.2014 on the file of the second respondent herein made in proceedings C.No.10/PBMMSEC Act/IS/2014 and quash the same as illegal and consequently direct the respondents herein to produce the petitioner's husband namely Amman @ Ammanullah, S/o Abdul Kareem, aged 30 years, before this Court and set the petitioner's husband at liberty from detention, now the petitioner's husband is detained at Central Prison, Coimbatore.

For Petitioner :Mr.S.Suresh

For Respondents :Mr.M.Maharaja,
Additional Public Prosecutor
for R1 and R2.
Ms.S.Meenakumari, SCGSC for R3



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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 C.No.10/PBMMSEC Act/IS/2014, dated 31.12.2014, whereby the detenu/the husband of the petitioner herein, by name, Amman @ Ammanullah, S/o Abdul Kareem, aged 30 years, was ordered to be detained under the provisions of the Prevention of Black Marketing and Maintenance of Supplies of Essential Commodities Act 1980 (Central Act 7 of 1980) branding him as a "Black Marketeer".

2.Though many grounds have been raised in the petition, Mr.S.Suresh, 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 the tamil translated version of page No.304 of the booklet, which is the Certificate of Registration of Income Tax Department has not been furnished to the detenu. The non-supply of tamil translated version of page No.304 of the booklet would deprive the detenu of 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 Certificate of Registration of Income Tax Department in page No.304 of the booklet is only in English version and the Tamil translated version of page No.304 is not available. 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.

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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. In the result, this Habeas Corpus Petition is allowed. The impugned detention order 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

vsi

To

1. The Secretary to Government,
Home, Prohibition and Excise Department
Fort St. George, Chennai-600 009.
2. The Commissioner of Police/Detaining Authority,
O/o The Commissioner of Police,
Coimbatore City, Coimbatore.
3. The Addl. Secretary,
Government of India,
Ministry of Consumer Affairs,
Food and Public Distribution,
(Dept. of Consumer Affairs)
Room No.270, Krishni Bhawan,
New Delhi - 110 001.
4. The Superintendent
Central Prison, Coimbatore.
5. The Public Prosecutor,
High Court, Chennai.
6. The Joint Secretary to Government Public (Law & order)
Fort St. George, Chennai-9.

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KGK(CO)

EU 26.06.15