

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.01.2015

CORAM:

THE HONOURABLE MR.JUSTICE M.JAICHANDREN
AND

THE HONOURABLE MRS.JUSTICE K.B.K.VASUKI

H.C.P.No.2815 of 2014

Selvi

..Petitioner

Vs

1.The State

The District Collector and District Magistrate,
Office of the District Collector and
District Magistrate,Tiruvannamalai District,
Tiruvannamalai.

2.The Secretary to Government,

Co-operation, Food land Consumer Protection Department,
II Floor, Namakkal Kavingar Maligai,
Secretariat,Chennai - 600 009.

3.The Inspector of Police,

Civil Supplies CID,
Tiruvannamalai Unit.

4.The Secretary to Government,

Government of India,Food and Consumer Protection Department,
New Delhi - 110 001.

5.Additional Secretary to Government,

Government of India,
Department of Consumer Affairs,
Room No.270, Krishi Bhavan,
New Delhi - 110 001.

..Respondents

6.

Prayer:- This Habeas Corpus Petition is filed under Article 226 of the Constitution of India to call for the records in connection with the order of detention passed by the 1st respondent dated 04.09.2014 in D.O.No.34/2014-C2 against the detenu, namely, Udayakumar @ Arni Kumar, S/o Sadaiyan, aged 30 years, who is now confined at Central Prison, Vellore, and set aside the same and direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner : Mr.V.Rajamohan

For Respondents : Mr.C.Emalias,
Additional Public Prosecutor for R1 to R3
Mr.V. Parivallal SCGSC for R4 & R5

ORDER

(The order of the Court was made by M.JAICHANDREN.,J and
K.B.K.VASUKI.,J.)

This Habeas Corpus Petition is filed, by the wife of the detenu, namely, Udayakumar @ Arni Kumar, aged 30 years, S/o Sadaiyan, to issue a Writ of Habeas Corpus, to call for the records, in D.O.No.34/2014-C2 dated 04.09.2014, passed by the 1st Respondent, detaining the detenu, under Section 3(1) 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 14/1982) the Tamil Nadu Act 14 of 1982, branding him as a "Goonda", in the Central Prison, Puzhal, Chennai, and to quash the same and to direct the Respondents to produce the body of the detenu and set him at liberty forthwith. 2. Though many grounds have been raised in the petition, Mr.V.Rajamohan, the learned counsel appearing for the petitioner, confines his argument on the ground that there is variation in translation of the bail order passed by the Judicial Magistrate No.I, Tiruvannamalai in C.M.P.No.8127/2014 in respect of Crime No.115/2014, and that would vitiate the order of detention and the same has deprived the detenu from making effective representation. Therefore, on this ground, the impugned order is liable to be set aside. Learned counsel for the petitioner also referred to the order passed by the Division Bench of this Court reported in 2014(1) L.W.(CrI.)641 (Kalyani v. The State of Tamil Nadu rep. by its Secretary to Government, Co-operation, Food and Consumer Protection Department, Namakkal Kavingar Maligai, 3rd Floor, Secretariat, Fort St.George, Chennai - 600 009 & another), in this regard.

3. Per contra, Mr.C.Emalias, the learned Additional Public Prosecutor. would submit that though there is some variation in the translation of the said bail order, but it will not affect the order of detention as the same has been passed on cogent and sufficient materials and there is no illegality or infirmity in the impugned order of detention.

4. We have given our careful and anxious consideration to the rival submissions put forward by the learned counsel on either side and thoroughly scanned through the impugned detention order and the entire materials available on record.

5. It is seen from page Nos.63 and 64 of the booklet that in the bail order copy of the co-accused dated 12.08.2014 made in C.M.P.No.8127/2014 by the Judicial Magistrate No.I, Tiruvannamalai, it has been stated that "learned APP objected to release the petitioner/accused stating that in this case, co-accused to be arrested and investigation is pending", but in Tamil version, the same has not been mentioned so, which in our considered view is the material defect in the translation and the same has deprived the detenu in making effective representation and the same render the order based on such defective translation to be vitiated by applying the view expressed in the judgment reported in 2014(1) L.W.(Crl.)641 (Kalyani v. The State of Tamil Nadu rep. By its Secretary to Government, Co-operation, Food and Consumer Protection Department, Namakkal Kavingar Maligai, 3rd Floor, Secretariat, Fort St.George, Chennai - 600 009 & another).

6. For the reasons stated above, the impugned order of detention is vitiated and the same is liable to be quashed.

7. 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/-

Asst.Registrar (AD I)

/true copy/

Sub Asst. Registrar

vsi

To

1. The District Collector and District Magistrate,
Office of the District Collector and
District Magistrate,
Tiruvannamalai District,
Tiruvannamalai.

2. The Secretary to Government,
Co-operation, Food land Consumer Protection Department,
II Floor, Namakkal Kavingar Maligai,
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Chennai - 600 009.

3. The Inspector of Police,
Civil Supplies CID,
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Government of India,
Food and Consumer Protection Department,
New Delhi - 110 001.
5. Additional Secretary to Government,
Government of India,
Department of Consumer Affairs,
Room No.270, Krishi Bhavan,
New Delhi - 110 001.
6. The Public Prosecutor,
High Court, Chennai.
7. The Secretary to Government
Prohibition and Excise Department
Fort St. George
Chennai-9
8. The Superintendent
Central Prison,
Vellore
9. The Joint Secretary to Government
Public (Law and order) Fort Saint George,
Chennai-9

2 ccs to Mr.V. parivallal, SCGSC, Sr. 2842

सत्यमेव जयते

HCP.No.2815 of 2014

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