

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.04.2015

CORAM

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

H.C.P.No.2977 of 2014

Mrs.S.Radhika

..

Petitioner

Vs.

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

2.The Commissioner of Police
Greater Chennai, Vepery, Chennai.

..

Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of habeas corpus calling for the records in connection with the order of detention passed by the 2nd respondent dated 10.10.2014 vide order No.1473/BDFGISSV/2014 against the petitioner's husband Sugumar aged 24 years, who is confined at Central Prison, Puzhal, Chennai, and set aside the same and direct the respondents to produce the detenu before this Court thereby setting him at liberty.

For Petitioner : Mr.S.Shankar

For Respondents : Mr.M.Maharaja,APP

ORDER

[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 Memo No.1473/BDFGISSV/2014 dated 10.10.2014, whereby the detenu/husband of the petitioner, by name, Sugumar, son of Panneerselvam, aged 24 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 many grounds have been raised in the petition, Mr.S.Shankar, 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 detention order is dated 10.10.2014 ; whereas the Detaining Authority, in paragraph 3 of the Grounds of Detention, has stated that the date of occurrence in the ground case in Cr.No.1330/2014 as "18.10.2014". This is indicative of total non-application of mind on the part of the Detaining Authority, on account of which, the Detention order is vitiated and is liable to be set aside.

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 Detention Order shows that the date of detention is mentioned as "10.10.2014" whereas, the occurrence date in the ground case in Cr.No.1330/2014 is mentioned as "18.10.2014", as evidenced in page No.3 paragraph 3 of the English and Vernacular version of the Grounds of Detention. This is indicative of total non-application of mind on the part of the Detaining Authority in passing the Detention order. 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 Memo No.1473/BDFGISSV/2014 dated 10.10.2014 passed by the second 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

To

- 1.The Secretary,
State of Tamil Nadu
Prohibition & Excise Department
Fort St George, Chennai 600 009.
- 2.The Commissioner of Police
Greater Chennai, Vepery, Chennai.
- 3.The Public Prosecutor,
High Court, Madras.
- 4.The Superintendent of Central Prison
Puzhal, Chennai.
- 5.The JOint Secretary to Government
Public (L&O) Fort St.George, Chennai.

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H.C.P.No.2977/2014



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