

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.04.2015

CORAM

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

H.C.P.No.3158 of 2014

S.Manikandan

..

Petitioner

Vs.

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

2.The Commissioner of Police
Office of the Commissioner of Police
[Goondas Section], Vepery,
Chennai 600 007.

..

Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of habeas corpus calling for the entire records connected with the order of the 2nd respondent herein in Memo No.1130/BDFGISSV/2014 dated 03.09.2014 against the detenu namely Karthick, S/o.Selvaraj, male, aged 27 years, who is confined Central Prison-II, Puzhal, Chennai-66 and set aside the same consequently directing the respondent herein to produce the body and person of the detenu before this Court and set him at liberty forth with.

For Petitioner सत्यमेव जयते : Mr.M.R.Chellappan

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.1130/BDFGISSV/2014 dated 03.09.2014, whereby the detenu/brother of the petitioner, by name, Karthick, son of Selvaraj, aged 27 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. M. R. Chellappan, 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 03.09.2014 ; whereas at the end of paragraph 2 of the Grounds of Detention [both in English and Vernacular Version], the date of detention is mentioned as "02.09.2014". Further, in respect of the ground case in Cr.No.1212/2014, the occurrence took place on 11.08.2014 at about 8.30 p.m. and the voluntary confession of the accused/detenu was obtained on the same day. But, in the voluntary confession statement, the date and time of the occurrence was mentioned by the Sponsoring Authority as "11.09.2014 at 8.30 p.m." 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 Detention Order shows that the date of detention is mentioned as "03.09.2014" whereas, in page No.2 Paragraph 2 of the Grounds of Detention, both in the English and Vernacular version, the same has been mentioned as "02.09.2014". The next crucial aspect to be taken into consideration is that, the date and time of occurrence in the Ground case [Cr.No.1212/2014] is said to be 11.08.2014 at 8.30 p.m. and the voluntary confession statement of the detenu was recorded on the same day, as evidenced from the Grounds of Detention [both in English and Tamil version]. But, a perusal of the booklet supplied to the detenu would show that in the voluntary statement recorded by the Sponsoring Authority from the detenu, the occurrence date and time is wrongly mentioned as 11.09.2014 at 8.30 pm and the same has been attested by the Sponsoring Authority. This inconsistency in the mentioning of dates, 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 Memo No.1130/BDFGISSV/2014 dated 03.09.2014 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 to Government
Government of Tamil Nadu
[Home] Prohibition & Excise Department
Fort St George, Chennai 600 009.
 2. The Commissioner of Police
Office of the Commissioner of Police
[Goondas Section], Vepery,
Chennai 600 007.
 3. The Superintendent, Central Prison-II, Puzhal, Chennai.
 4. The Joint Secretary to Government
Public (L&O) Fort St. George, Chennai.
 5. The Public Prosecutor, Madras High Court, Madras
- +1 cc to Mr.M.R.Chellappan, Advocate, SR.19055.

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H.C.P.No.3158/2014

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