

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 02.06.2015

Coram

THE HON'BLE DR.JUSTICE S.TAMILVANAN
and
THE HON'BLE MR.JUSTICE C.T.SELVAM

H.C.P.No.3219/2014

Nagaveni

...Petitioner

-vs-

1.The Secretary to Government
Home, Prohibition & Excise Department,
Secretariat,
Chennai-600 009.

2.The District Collector & District Magistrate,
Krishnagiri,
Krishnagiri District.

...Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Habeas Corpus to call for the records in connection with the order of detention passed by the second respondent in S.C. No.42/2014 dated 16.10.2014 against the detenu namely Chandru @ Chandrasekar, son of Munusamy, aged about 36 years, who is now confined at Central Prison, Salem and to set aside the same and to direct the respondents to produce the detenu before this Court and to set him at liberty.

For petitioner सत्यमेव जयते : Mr.N.Ramesh

For Respondents : Mr.M.Maharaja, APP

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O R D E R
(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 S.C. No.42/2014 dated 16.10.2014, whereby the husband of the petitioner by name Chandru @ Chandrasekar, son of Munusamy, aged about 36 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 the learned counsel for the petitioner has raised several other grounds to assail the order of detention, he mainly focused his arguments on the ground that non application of mind on the part of the detaining authority. Learned counsel for the petitioner contended that the detaining authority has made a mention that the detenu was released on bail in respect of a case registered in Crime No.214/2014 on the file of Bagalur Police Station for the offences under Sections 379 and 511 of IPC by the Judicial Magistrate No.I, Hosur in CrI.M.P. No.1306/2014 on 25.09.2014, but, he has not furnished relevant materials to the detenu to that effect, which has deprived the detenu in making effective representation to the authorities concerned and therefore, on this sole ground, the detention order is liable to be quashed.

3.We have heard the learned Additional Public Prosecutor on the above submission made by the learned counsel for the petitioner.

4.A careful scrutiny of the grounds of detention in page 5 in paragraph 4 would reveal that the detaining authority has stated as follows:

"He has obtained bail order in Hosur Town P.S. Cr.No.392/2014 u/s.364(A) @ 147, 148, 341, 365, 364(A), 307, 302r/w.120(b), 34 IPC in Principal District Judge Court, Krishnagiri, vide in CrI.M.P. No.2350/2014 dt.08.10.2014 and obtained bail order in Bagalur P.S. Cr.No.214/2014 u/s.379, 511 IPC in Judicial Magistrate No.I, Hosur, vide in CrI.M.P.1306/2014, dt.25.09.2014."

5.A perusal of the booklet furnished to the detenu would reveal that not a single piece of material, relates to Crime No.214/2014 is furnished to the detenu. This non furnishing of relevant materials to

the detenu has deprived him on making effective representation, which amounts to infringement of right ensured under Article 22(5) of the Constitution of India, would vitiate the order of detention.

6.For the aforesaid reason, the impugned detention order passed by the second respondent is quashed and the Habeas Corpus Petition is allowed. The detenu is ordered to be set at liberty forthwith, unless his custody is required in connection with any other case.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

vga

To

1.The Secretary to Government
Home, Prohibition & Excise Department,
Secretariat, Chennai-600 009.

2.The District Collector & District Magistrate,
Krishnagiri, Krishnagiri District.

3.The Superintendent of Central Prison
Salem.

4. The Joint Secretary to Government,
Public (Law & Order)
Fort St. George, Chennai - 9.

5.The Public Prosecutor
High Court, Madras.

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RV [CO]
PSI (16.06.2015)