



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **28.08.2015**

CORAM:

THE HONOURABLE MR.JUSTICE **S.NAGAMUTHU**

**and**

THE HONOURABLE MR.JUSTICE **V.S.RAVI**

**H.C.P(MD)No. 1162 of 2015**

Sumathi

.. Petitioner

Vs.

1.State of Tamil Nadu, rep. by its  
Secretary to Government,  
Home, Prohibition & Excise Department,  
Fort St. George,  
Chennai 600 009.

2.The Commissioner of Police,  
Trichy District,  
Trichy.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus, to call for the records relating to the Detention order passed by the 2nd respondent in C.No.28/Detention/C.P.O/T.C/2015, dated 29/07/2015 and quash the same and direct the respondents to produce the person or body of the Detenue, Jayasurya S/o.Ravi, aged about 19 years (now detained at District Prison and Borstal School, Pudukkottai) before this Court and set him at liberty.

For Petitioner : Mr.Veera.Kathiravan

For Respondent : Mr.T.Mohan,

Additional Public Prosecutor

**ORDER**

[Order of the Court was made by **S.NAGAMUTHU, J**]

The petitioner is the mother of the one Jayasurya, aged S/o. Ravi, aged 19 years. He has been detained by the second respondent under of Section 3(1) of Tamil Nadu Prevention of Dangerous Activities of Boot-leggers, Cyber Law Offenders, Drug Offenders, Sexual Offenders, Slum-grabbers and Video Priates Act, 1982 (Tamil Nadu Act 14 of 1982), branding him as "Goonda". Challenging the same, the petitioner has come up with this Habeas Corpus Petition.

2. We have heard the learned counsel appearing for the petitioner, the learned Additional Public Prosecutor appearing for the respondents and also perused the records carefully.

<https://hcservices.ecourts.gov.in/hcservices/>

3.Though several grounds have been raised in the Habeas Corpus Petition, the learned counsel for the petitioner would submit that



the impugned order of detention has been passed without having proper application of mind and without having arrived at subjective satisfaction on vital issues. In order to substantiate his stand, the learned counsel for the petitioner would submit that in the adverse case in Crime No.83 of 2015 on the file of Trichy Cantonment Police Station. The detenu was actually arrested at the Uyyakondan Vaikal Karai, Aarukan Palam by the Assistant Commissioner of Police on 01.07.2015 at 06.00 a.m. On such arrest, according to the records, the accused is said to have given a confession. It was thereafter, he was brought to the Police Station and forwarded to the Court for judicial remand. But the detention order shows as though he was produced before the Judicial Magistrate No.II, on 01.07.2015, on Prisoner Transit Warrant and accordingly he was remanded to judicial custody. Thus, according to the learned counsel for the petitioner, it shows the total non application of mind of the Detaining Authority.

4. The learned Additional Public Prosecutor would submit that according to the records, the accused was actually arrested at Uyyakondan Vaikal Karai and he was not produced before the Judicial Magistrate on Prisoner Transit Warrant. However, he would submit that it does not make much of difference between the production of the accused before the Court on Prisoner Transit Warrant and production of the accused by police on arrest. He would submit that the question as to whether on the date of consideration for detention, he was in custody or not.

5. We have considered the above submissions.

6. Since the personal liberty of the citizen is deprived of without there being a trial, the law requires that the Detaining Authority should apply his mind into the facts of the case and should arrive at a subjective satisfaction that the detention is absolutely necessary. Here in this case, the very fact that the Detaining Authority has mentioned that the detenu was produced on Prisoner Transit Warrant would go to show that he did not look into the papers properly and he did not apply his mind at all. Thus the subjective satisfaction arrived at by the Detaining authority cannot be sustained. In such view of the matter, we are inclined to allow this Habeas Corpus Petition.

7. In the result, this Habeas Corpus Petition is allowed and the impugned Detention Order, passed by the second respondent, in C.No.28/Detention/C.P.O/TC/2015, dated 29.07.2015 is quashed. The detenu, namely, Jayasurya, S/o. Ravi, aged about 19 years, is ordered to be set at liberty forthwith, if he is not required for detention in connection with any other case.

Sd/-

Assistant Registrar (C.O.)

/True Copy/



To

1. The Secretary to Government,  
Home, Prohibition & Excise Department,  
Fort St. George,  
Chennai 600 009.

2. The Commissioner of Police,  
Trichy District,  
Trichy.

3. The Superintendent,  
District Prison and Borstal School,  
Pudukkottai District.  
(In Duplicate to communicate the detenu )

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

5. The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.

+1cc to M/s.Veera.Kathiravan, Advocate Sr.No.49984

Akm/28.08.2015 /3p-8c/

**H.C.P (MD) .No.1162 of 2015**  
**28.08.2015**