



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.11.2015

CORAM:

THE HONOURABLE MR.JUSTICE P.R.SHIVAKUMAR
and
THE HONOURABLE MR.JUSTICE V.S.RAVI

H.C.P(MD)No.1177 of 2015

Nagoor Gani

.. Petitioner

Vs.

- 1.The State of Tamil Nadu,
Rep. By the Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George, Chennai - 9.
- 2.The Commissioner of Police,
O/o.The Commissioner of Police,
Tiruchirappalli City,
Tiruchirappalli.
- 3.The Superintendent of Central Prison,
Central Prison,
Tiruchirappalli.

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, calling for the entire records in detention order passed in C.No.27/Detention/C.P.O/TC/2015, dated 21.07.2015 on the file of the second respondent herein and set aside the same as illegal and direct the respondents to produce the body or person of the petitioner's son namely Abbas alias Sheik Dawood, Son of Nagoor Gani, male, aged about 30 years, who is detained in Central Prison, Tiruchirappalli before this Court and set him at liberty.

For Petitioner

: Mr.K.A.S.Prabhu

For Respondents

: Mr.A.Ramar

Additional Public Prosecutor

ORDER

[Order of the Court was made by **V.S.RAVI**]

The petitioner is the father of the detenu viz., Mr.Abbas alias Sheik Dawood, Son of Nagoor Gani, aged about 30 years. The detenu has been detained, as per the order of the second respondent, in C.No.27/Detention/C.P.O/TC/2015, dated 21.07.2015, under Section 2 (f) of the Tamilnadu Act 14 of 1982, branding him as "Goonda".



Challenging the same, he has come up with this Habeas Corpus Petition.

2. The learned counsel appearing for the petitioner has straightaway drawn the attention of this Court to the non-supply of the material records by the Detaining Authority. Further, in spite of the request made by the petitioner on 10.08.2015, as per the details mentioned in page No.13 of the typed-set of papers, the said material records have not been issued so as to make an effective representation on behalf of the detenu.

3. Further, the learned counsel appearing for the petitioner pointed out that the first remand has been made on 11.05.2015 upto 25.05.2015 and the last remand has been made from 07.07.2015 to 21.07.2015 and the material records with regard to the same alone have been furnished to the detenu and there is no relevant remand extension order between the period from 25.05.2015 to 07.07.2015. Therefore, the learned counsel appearing for the petitioner submitted that the impugned Detention Order is liable to be set aside.

4. In support of his contention, the learned counsel for the petitioner has relied on the following Judgment in **2011 (1) MWN (Cr) 599 (DB) (Mageswari v. The Government of Tamil Nadu)**, wherein this Court has clearly held as follows:-

"Therefore, we are of the view that the supply of copies of materials relied on along with the grounds of detention is also the requirement of the said provisions to enable the detenu to make an effective representation at the earliest point of time".

5. We have considered the submissions made by the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondents. We have also perused the records carefully.

6. On a perusal of the materials available on record in the form of typed-set of papers, more particularly, the representation submitted by the petitioner, dated 10.08.2015, enclosed at page No.13 of the typed-set of papers, it is seen that the relevant records, more particularly, the remand extension order have not been served to



the detenu, in spite of the request made on behalf of the detenu and hence, the petitioner has requested for the supply of the same by way of representation. Furthermore, the Detaining Authority has not furnished any sufficient reason for not serving the said material records, as sought for by the petitioner. Therefore, as per the decision in **Mageswari's** case cited *supra*, we are of the view that the Detaining Authority has passed the Detention Order in non-application of mind and, therefore, the same is liable to be quashed.

7. In the result, this Habeas Corpus Petition is allowed and this Court sets aside the Order of Detention dated 21.07.2015, made in C.No.27/Detention/C.P.O/TC/2015 by the second respondent, the Commissioner of Police, O/o.The Commissioner of Police, Tiruchirappalli City, Tiruchirappalli and directs the release of the detenu, by name Abbas alias Sheik Dawood, Son of Nagoor Gani, aged about 30 years, if his continued custody is not authorised in specific cases or by any other detention order.

Sd/-

Assistant Registrar (C.O.)

/True Copy/

Sub Assistant Registrar

To

- 1.The Secretary to Government, State of Tamil Nadu, Home, Prohibition and Excise Department, Fort St.George, Chennai -9.
- 2.The Commissioner of Police, O/o.The Commissioner of Police, Tiruchirappalli City, Tiruchirappalli.
- 3.The Superintendent of Central Prison, Central Prison, Tiruchirappalli.
(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.

+!cc to Mr.K.A.S.Prabhu, Advocate Sr.No.67916