



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.12.2015

CORAM:

THE HONOURABLE MR.JUSTICE P.R.SHIVAKUMAR

and

THE HONOURABLE MR.JUSTICE V.S.RAVI

H.C.P(MD)No.1269 of 2015

Prema

:Petitioner

Vs.

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

2.The District Collector and District Magistrate,
Tirunelveli District,
Tirunelveli - 9.

3.The Inspector of Police,
Munneerpallam Police Station,
Tirunelveli District.

4.The Superintendent of Central Prison,
Palayamkottai,
Tirunelveli District.

:Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, to call for the entire records, connected with the detention order of the respondent No.2 in respect of No. M.H.S.Confdl.No.88/2015 dated 23.07.2015 and quash the detention order and and direct the fourth respondent to produce the body or person of the detenu by name Seenivasan aged about 35 years, now detained at Palayamkottai Central Prison before this Court and set him at liberty forthwith.

For Petitioner : Mr.P.Ramasamy

For Respondents : Mr.A.Ramar

Additional Public Prosecutor

O R D E R

[Order of the Court was made by P.R.SHIVAKUMAR, J.]

The petitioner is the wife of the detenu. The detenu was detained by the second respondent by his order in M.H.S. Confdl.No.88/2015 dated 23.07.2015, holding him to be a "Sand Offender", as contemplated under Section 2(gg) of Tamil Nadu Act 14 of 1982, taking note of the ground case in Crime No.203 of 2015 on the file of Munneerpalam Police Station registered for offences punishable under Section 379 of the Indian Penal Code and r/w Section 21(1) of Mines and Minerals (Development and Regulation) Act.

2. The Detaining Authority, expressing subjective satisfaction that the detenu is a "Sand Offender" as defined in the said Act and that his presence at large would be prejudicial to the maintenance of public order and public health and also expressing subjective satisfaction that

it was very likely that the detenu would come out on bail in the ground case, passed the impugned detention order. The said order is challenged in the present Habeas Corpus Petition.

3. Though the order of detention is assailed on several grounds, the learned counsel for the petitioner seeks permission of the court to raise an additional ground and we permit the same. The learned counsel for the petitioner, relegating the other grounds, mainly relies on the additional ground raised with the permission of the court, which is to the following effect:

"The detention order came to be passed taking note of the confession statement of the detenu in the ground case leading to recovery. But, the copy of the said confession statement has not been furnished to the detenu. Non-furnishing of the said confession statement amounts to denial of a reasonable opportunity to make an effective representation as the copy of a relied on document has not been furnished to the detenu."

4. We have heard the submissions made by Mr.A.Ramar, learned Additional Public Prosecutor on behalf of the said submissions made by the learned counsel for the petitioner. The submissions, thus, made by the learned Additional Public Prosecutor are also taken into consideration.

5. As rightly pointed out by the learned counsel for the petitioner besides furnishing the other materials to the detenu, the Detaining Authority ought to have furnished the copy of the confession statement to the detenu. Moreover, the non-supply of the copies of confession statement, which was taken into account by the Detaining Authority, vitiates the proceedings, as it will amount to denial of reasonable opportunity to the detenu to make an effective representation against the order of detention. On that ground, the Habeas Corpus Petition is bound to be allowed and the order of detention is liable to be interfered with and set aside.

6. In the result, the Habeas Corpus Petition is allowed and this Court sets aside the order of detention, made in No. M.H.S.Confdl.No.88/2015 dated 23.07.2015, by the second respondent, the District Collector and District Magistrate, Office of the District Collector and District Magistrate, Tirunelveli District, Tirunelveli and directs the release of the detenu by name Seenivasan, S/o. Sivan Konar aged about 35 years forthwith, if his continued custody is not authorised in specific cases or by any other detention order.

Sd/-

Assistant Registrar(CO)

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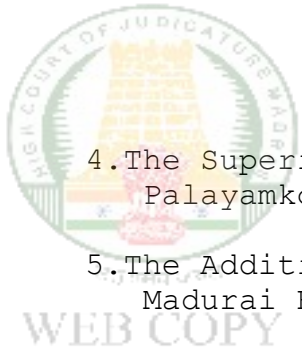
Sub Assistant Registrar(CS)

To,

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

2.The District Collector and District Magistrate,
Tirunelveli District, Tirunelveli - 9.

3.The Inspector of Police,
Munneerpallam Police Station, Tirunelveli District.



4.The Superintendent of Central Prison,
Palayamkottai, Tirunelveli District.

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

H.C.P (MD)No.1269 of 2015
Dated:- 16.12.2015

CM

PBK/AAL-MPA 08.01.2016 ::3P-6C: