



WEB COPY

1

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.12.2015

CORAM:

THE HONOURABLE MR.JUSTICE P.R.SHIVAKUMAR

and

THE HONOURABLE MR.JUSTICE V.S.RAVI

H.C.P (MD) No.1379 of 2015

Vijay @ Manikandan

.. Petitioner

Vs.

1.State of Tamil Nadu, rep. by
the Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Fort St. George,
Chennai-600 009.

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 praying to issue a Writ of Habeas Corpus, calling for the entire records relating to the detention order passed in C.No.36/Detention/C.P.O./T.C./2015, dated 07.09.2015 on the file of the second respondent, quash the same and consequently, direct the respondents to produce the body or person of the detenu by name Vijay @ Manikandan S/o.Kumar, male, aged about 24 years, who is detained in Central Prison, Tiruchirappalli before this Court and set him at liberty forthwith.

For Petitioner : Mr.K.A.S.Prabhu

For Respondents : Mr.A.Ramar,

Additional Public Prosecutor.

O R D E R

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

The petitioner is the detenu. He has been detained, as per the order of the second respondent under Section 2(f) of the Tamilnadu Act 14 of 1982, branding him as "Goonda". Challenging the same, he has come up with this petition.

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

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



3. Though several grounds have been raised in the Habeas Corpus Petition, the learned counsel for the petitioner would mainly focus his argument on the following two grounds:

(i) The Government Order in G.O.(D).No.141, Home and Prohibition and Excise (XVI) Department, dated 18.07.2015, has not been furnished to the detenu; and

(ii) The remand extension order relating to the ground case for period from 21.07.2015 to 31.08.2015 has not been enclosed with the booklet supplied to the detenu.

Thus, according to the learned counsel for the petitioner, the respondents have not furnished the relevant relied on material records to the detenu so as to make an effective representation as against the detention order passed by the respondent.

4. Heard the learned Additional Public Prosecutor appearing for the respondents on the above submission made by the learned counsel for the petitioner.

5. So far as the contention of the learned counsel for the petitioner regarding the non-furnishing of the Government Order is concerned, admittedly, the power delegated to the Detaining Authority has been periodically extended by fresh Government Orders passed once in three months and a copy of the latest Government Order extending the delegation, which has been referred to in the detention order, has not been furnished to the detenu. Though non-furnishing of the same initially may not be taken serious note of, when a representation is made seeking supply of a copy of the said Government Order to make an effective challenge to the detention order, such request ought to have been considered properly and the failure to do so and the mechanical rejection of such request amounts to denial of reasonable opportunity to make an effective challenge to the order of detention. On that score, the order of detention is liable to be set aside.

6. So far as the second ground is concerned, on a careful perusal of the entire records, particularly the booklet, it is found that the remand extension order for the period from 21.07.2015 to 31.08.2015 in respect of the case in Crime No.271 of 2015 has not been served to the detenu so as to make an effective representation. Thus, as rightly contended by the learned counsel for the petitioner, the respondents have not furnished the relevant relied on material records to the detenu so as to make an effective representation as against the detention order passed by the respondent. Hence, on both the grounds, the order of detention is liable to be set aside.

7. In the result, the Habeas Corpus Petition is allowed and this Court sets aside the order of detention dated 07.09.2015, made in C.No.36/Detention/C.P.O/T.C/2015, by the second respondent / the Commissioner of Police, Tiruchirappalli District, Tiruchirappalli and directs the release of the detenu by name Vijay @ Manikandan S/o.Kumar, aged about 24 years forthwith, if his custody/detention is not authorised in specific cases or by any other order of detention.

Sd/-

Assistant Registrar

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

//True Copy//

Sub Assistant Registrar

Madurai Bench of Madras High Court,
Madurai.



To

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Fort St. George,
Chennai-600 009.
- 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, Government of Tamil Nadu,
Public (Law & order) Department, Fort St. George, Chennai 600 009.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to M/S.K.A.S.Prabhu, Advocate in SR.No. 70899

TS/31.12.2015/3P-8C/PM-MP

Order Made in
H.C.P (MD) No.1379 of 2015

10.12.2015