



WEB COPY

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.1373 of 2015

Karuppaiah @ Sullan Karuppaiah .. Petitioner
Vs.

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

2.The District Collector and District Magistrate,
Office of the District Collector and
District Magistrate,
Sivagangai District,
Sivagangai.

3.The Superintendent of Prison,
Madurai Central Prison,
Madurai District. .. 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 connected with the detention order passed by second respondent in his proceedings in Cr.M.P.No.24/Goonda/2015, dated 03.09.2015, quash the same and direct the respondents to produce the body or person of the detenu by name Karuppaiah @ Sullan Karuppaiah S/o.Muniyandi, aged about 24 years, now detained at Madurai Central Prison, Madurai before this Court and set him at liberty forthwith.

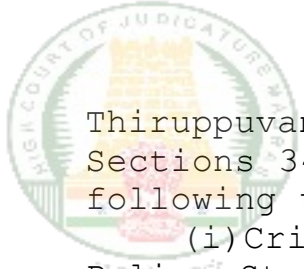
For Petitioner : Mr.R.Alagumani

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 detenu. He has been detained by the second respondent by his order in Cr.M.P.No.24/Goonda/2015, dated 03.09.2015, holding him to be a "Goonda", as contemplated under Section 12(1) of Tamil Nadu Act 14 of 1982, taking note of the ground case in Crime No.141 of 2015 registered on the file of



Thiruppuvanam Police Station for offences punishable under Sections 341, 294(b), 307 and 302 of the Indian Penal Code and the following two adverse cases:

(i) Crime No.18 of 2014 registered on the file of Thirupachetty Police Station for offences punishable under Sections 294(b), 324 and 506(ii) of the Indian Penal Code; and

(ii) Crime No.59 of 2014 registered on the file of Palayanoor Police Station for an offence punishable under Section 397 of the Indian Penal Code.

2.The Detaining Authority, expressing subjective satisfaction that the detenu conformed to the definition of "Goonda" and that his presence at large would be prejudicial to the maintenance of public order 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.Besides the grounds raised in the affidavit filed in support of the Habeas Corpus Petition, the learned counsel for the petitioner wants to raise one more ground and seeks leave of the Court to raise such an additional ground and we permit the same. The learned counsel for the petitioner, besides the additional ground raised with the permission of the Court, relies on one of the grounds of challenge made in the supporting affidavit and does not deal with the other grounds. The grounds of challenge thus made before us by the learned counsel for the petitioner are as follows:-

(i) Copies of a number of documents included in the booklet supplied to the detenu are illegible and the same deprived the detenu of his right to make an effective representation with necessary details against the order of detention; and

(ii) The detenu knows only Tamil and copies of the documents served on him which are found at page Nos.113 to 116, are all in English. Even though he made a representation dated 14.09.2015 praying that he shall be supplied with a translated Tamil version of those documents, the same was not considered and translated copies of those documents were not supplied to him. The same caused a disability to make an effective representation against the order of detention.

4.The submissions made by the learned Additional Public Prosecutor in reply to the above said contentions raised by the learned counsel for the petitioner are also heard.

5. As pointed out by the learned counsel for the petitioner, the documents found at Page Nos.39, 81 and 102 of the booklet are illegible and in particular, the copy of the arrest report in the ground case found at page No.102 is illegible



as the entire 1/4th of the left side portion of the document has been blackened and the contents cannot be read. Similar is the condition of the copy of the arrest memo found at page No.81. In the copy of the document found at page No.39 of the booklet, several lines in the second paragraph are illegible because of the impression of the reverse printing. Hence, as rightly contended by the learned counsel for the petitioner, by the supply of such illegible copies, he was denied of reasonable opportunity of making an effective representation against the order of detention at the earliest point in time.

6. Copy of the accident register found at page No.113, copy of the post-mortem certificate found at page No.114, copy of the remand extension order dated 31.08.2015 found at page No.115 and copy of the bail order found at page 116 of the booklet are in English. The detenu has signed the documents only in Tamil contending that he knows only Tamil. Admittedly he sent a representation dated 14.09.2015 for the supply of translated copies of the above said documents. In paragraph No.11 of the counter affidavit dealing with the above said contention, it has been stated that all legible copies were supplied to the detenu in the form of booklet. There is nothing to show that after representation, legible copies were supplied and translation of the documents found at page Nos.113 to 116 were supplied. As rightly contended by the learned counsel for the petitioner, the supply of illegible copies of the documents referred to above and the failure to supply translated copies of the documents referred to in the representation dated 14.09.2015 would amount to denial of reasonable opportunity to the detenu to make an effective representation for revocation of the order of detention at the earliest point of time. 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 03.09.2015, made in Cr.M.P.No.24/Goonda/2015, by the second respondent / the District Collector and District Magistrate, Sivagangai District, Sivagangai and directs the release of the detenu by name Karuppaiah @ Sullan Karuppaiah S/o.Muniyandi, 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(AE)

/True Copy/

Sub-Assistant Registrar

To

1.The Secretary to Government,
Home, Police, P.W.D. and Excise Department,
Secretariat,
Chennai - 600 009.



2.The District Collector and District Magistrate,
Office of the District Collector and
District Magistrate,
Sivagangai District,
Sivagangai.

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

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

5.The Superintendent of Prison,
Madurai Central Prison,
Madurai District.

+One cc to Mr.R.Alagumani, Advocate, SR.No.71271

gcg
RL/7C/NGM/SS/31/12/2015

ORDER MADE IN
H.C.P (MD) No.1373 of 2015

10.12.2015