



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.1580 of 2015

Ganesan @ Kudanchan Ganesan

: Petitioner

Vs.

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

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

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

: Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, calling for the entire records, connected with the detention order of the respondent No.2 in No. H.S.(M) Confldl. No.68/2015 dated 31.08.2015 and quash the same and direct the respondents to produce the body or person of the detenu by name Ganesan @ Kudanchan Ganesan, Son of Manika Vasagam aged about 25 years, now detained at Palaymkottai Central Prison 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. The detenu was detained by the second respondent by his order in H.S.(M) Confldl. No.68/2015 dated 31.08.2015, holding him to be a "Goonda", as contemplated under Section 2 (f) of Tamil Nadu Act 14 of 1982, taking note of the ground case in Crime No.639 of 2015 on the file of Kovilpatti West Police Station registered for alleged offences punishable under Sections 341, 294(b), 387, 307 and 506(ii) of the Indian Penal Code and the following four adverse cases:-

(i) Crime No.1048 of 2014 registered on the file of Kovilpatti West Police Station for an alleged offence punishable under Section 387 of the Indian Penal Code;

(ii) Crime No.1249 of 2014 registered on the file of Kovilpatti West Police Station for alleged offences punishable



under Sections 147, 148, 341, 294(b), 324 and 506(ii) of the Indian Penal Code;

(iii) Crime No.62 of 2015 registered on the file of Mamsapuram Police Station for alleged offences punishable under Sections 147, 148, 294(b), 341, 302 of the Indian Penal Code; and

(iv) Crime No.625 of 2015 registered on the file of Kovilpatti West Police Station for an alleged offence punishable under Section 151 Cr.P.C r/w Section 7(i)(a) CLA Act.

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. Though the order of detention is assailed on several grounds, the learned counsel for the petitioner primarily relies on the following contention:-

"The Detaining Authority after detaining him under the order of detention served the grounds of detention and also the relied on materials in the form of booklet. However, the copies of arrest intimation memo in the ground case and also in the fourth adverse case were not included in the booklet supplied to the detenu. The relevant materials, which have a bearing on the subjective satisfaction of the Detaining Authority, were not supplied to the detenu and thereby a denial of reasonable opportunity to make effective representation to the Government against the order of detention has ensued."

4. The learned counsel for the petitioner after taking us through the entire booklet points out the fact that the copies of arrest intimation memo in the ground case and in the fourth adverse case were not included in the booklet supplied to the detenu.

5. We have heard the submissions made by Mr.R.Alagumani, learned counsel appearing for the petitioner and Mr.A.Ramar, learned Additional Public Prosecutor appearing on behalf of the respondents. The learned Additional Public Prosecutor is not in a position to deny the above said submission.

6. On perusal of the booklet, we are not able to find the copies of the said documents in it. As rightly contended by the learned counsel for the petitioner, the non-supply of the copies of the arrest intimation memo in the ground case and in the fourth adverse case amounted to denial of a reasonable opportunity at the earliest possible time to make an effective representation for revocation of the order of detention or to challenge the same more effectively. 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.



7. In the result, the Habeas Corpus Petition is allowed and this Court sets aside the order of detention dated 31.08.2015, made in No.H.S.(M) Confdl.No.68/2015, by the second respondent, the District Collector and District Magistrate, Office of the District Collector and District Magistrate, Thoothukudi District, Thoothukudi and directs the release of the detenu by name Ganesan @ Kudanchan Ganesan, aged about 25 years forthwith, if his continued custody is not authorised in specific cases or by any other detention order.

Sd/-
Assistant Registrar(AE)

/True Copy/

Sub Assistant Registrar

To

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.
- 2.The District Collector and District Magistrate,
Office of the District Collector and District Magistrate,
Thoothukudi District,
Thoothukudi.
- 3.The Superintendent of Prison,
Palayamkottai Central Prison,
Palayamkottai.
- 4.The Joint Secretary to Government,
Public (Law & Order),
Fort St. George, Chennai-9.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.R.Alagumani, Advocate SR.No.72538

Order made in
H.C.P (MD) No.1580 of 2015

Dated:- 16.12.2015

CM
NS/NGM-SS/31.12.2015 : 3P/7C