



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.08.2015

CORAM:

THE HONOURABLE MR.JUSTICE S.NAGAMUTHU

and

THE HONOURABLE MR.JUSTICE V.S.RAVI

H.C.P(MD)No. 531 of 2015

Saraswathi

..Petitioner

Vs.

1.The Secretary to Government,
Government of Tamil Nadu,
Home, Prohibition and Excise Department,
Secretariat, Chennai-9.

2.The Commissioner of Police,
Tiruchirappalli City,
Tiruchirappalli.

..Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus, call for the records pertaining to the impugned detention order passed by the 2nd respondent made in his proceedings in C.No. 13/Detention/C.P.O./T.C/2015 dated 13.04.2015 in detaining the detainee under Section 2(f) of Tamil Nadu Act 14 of 1982, as a Goonda and quash the same and direct the respondents to produce the Detenue, namely Gowtham, S/o.Paulraj, male, aged about 24 years, who is detained in Central Prison, Trichy, before this Court and set him at liberty.

For Petitioner : Mr.K.M.Karunakaran
For Respondents : Mr. T.Mohan
Additional Public Prosecutor.

O R D E R

[Order of the Court was made by S.NAGAMUTHU,J]

The petitioner is the mother of one Gowtham, S/o.Paulraj, male, aged about 24 years. The second respondent by his proceedings in C.No.13/Detention/C.P.O./T.C/2015, dated 13.04.2015 has ordered for his detention, under Section 2(f) of Tamil Nadu Act 14 of 1982 branding him as a Goonda, Challenging the same, the petitioner has come up with this Habeas Corpus Petition.

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

3.The learned counsel for the petitioner would submit that the petitioner has sent a representation to the first representation on 13.04.2015, objecting to the detention order passed by the second respondent. But, strangely, according to her, the said representation was rejected by the second respondent, namely, the detaining authority on



22.04.2015 by the proceedings in C.No.863/IS/COP/TRC/2015, dated 22.04.2015. Thus, according to him, the representation made by the petitioner was not at all considered by the first respondent. In the counter filed by the second respondent, the above facts are admitted.

4. Though several other grounds have been raised in the petition, the learned counsel for the petitioner confined his arguments only to the above said ground.

5. The learned Additional Public Prosecutor has no explanation as to why the first respondent has not chosen to pass any order on the representation of the petitioner, though the representation was made only to the first respondent.

6. In our considered view, when the representation was made to the Government, it is for the Government to consider the same and it is not for the detaining authority. Here, in this case, though the representation was made to the Government, the detaining authority, on his own, dismissed the representation, which, in our considered view would not satisfy the legal requirements, more particularly, the procedure contemplated under Articles 21 and 22 of the Constitution of India. In such view of the matter, we are inclined to set aside the detention order.

7. In the result, the impugned detention order passed by the second respondent in C.No.863/IS/COP/TRC/2015, dated 22.04.2015, is set aside and the Habeas Corpus Petition is allowed.

Sd/-

Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

1.The Secretary to Government,
Government of Tamil Nadu,
Home, Prohibition and Excise Department,
Secretariat, Chennai-9.

2.The Commissioner of Police,
Tiruchirappalli City,
Tiruchirappalli.

3.The Superintendent, Central Prison, Trichy.
(in duplicate to communicate the detenue)

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

+1cc to Mr.K.M.Karunakaran, Advocate in SR.No.48704

H.C.P (MD) No.531 of 2015
24.08.2015