



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 20.07.2015

CORAM:

THE HONOURABLE MR.JUSTICE A.SELVAM
AND

THE HONOURABLE MR.JUSTICE V.S.RAVI
H.C.P(MD)No.55 of 2015

E.Maragatham

... Petitioner

Vs.

1. The State of Tamil Nadu,
Rep. by Secretary to Government,
Prohibition and Excise Department,
Fort St. George,
Chennai-9.

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

3. The Inspector of Police,
Woraiyur Police Station,
Tiruchirappalli City.

... Respondents

PRAYER:

The Habeas Corpus Petition is filed under Article 226 of the Constitution of India, praying to issue a Writ of Habeas Corpus, calling for the records relating to the Detention Order passed by the second respondent in C.No.41/Detention/C.P.O/T.C/2014 dated 23.12.2014 and to quash the same and direct the respondents to produce the person (or) person's body of the detenu Vikki @ Vigneshwaran, S/o.Easwaramoorthy, aged about 25 years, before this Court and set him at liberty, now detained at Central Prison, Thiruchirappalli.

For Petitioner : Mr.M.Karunanithi, Advocate

For Respondents : Mr.C.Ramesh
Additional Public Prosecutor

ORDER

The petitioner in H.C.P.(MD)No.55 of 2015 is the mother of the detenu and she has filed the Habeas Corpus Petition under Article 226 of the Constitution of India to set aside the Detention Order in C.No.41/Detention/C.P.O/T.C/2014 dated 23.12.2014, passed by the second respondent and to produce the detenu, Vikki @ Vigneshwaran, aged about 25 years, before this Court and set him at liberty.



2. Brief averments made in the petition and also the submissions made on behalf of the petitioner by the learned counsel appearing for the petitioner are as follows:-

2.1 The petitioner is the mother of the detenu, namely, Vikki @ Vigneshwaran, and the said person has been detained by the second respondent on 23.12.2014, in C.No.41/Detention/C.P.O/T.C/2014 under Tamil Nadu Act 14 of 1982 as "Goonda" and has been detained at the Central Prison, Thiruchirappalli. The detenu has never acted in any manner, prejudicial to the maintenance of Public Order. The third respondent has come to adverse notice in three cases and one ground case and the second respondent has passed the adverse impugned order against the detenu.

2.2 Further, the third respondent has registered a case against the detenu in Crime No.193 of 2014 for the alleged offence under Section 302 I.P.C., and the detenu has been arrested on 27.10.2014 and he has been remanded to judicial custody on the same day. The second respondent has passed the Order of Detention without following the due procedures established under the Act and also without following the proper application of mind. The Detaining Authority in Para No.5 of Grounds of Detention mentioned the fact that the detenu is in remand in Crime No.193 of 2014 on the file of third respondent police and in Crime No.135 of 2014 on the file of the Pudukkottai Town Police Station and the bail petitions have been dismissed. However, the Detaining Authority has recorded that the detenu is very likely to be released on bail in Woraiyur Police Station Crime No.193 of 2014 and there is a real possibility of his coming out on bail in Pudukkottai Town Police Station Crime No.135 of 2014. Hence, there is total non-application of mind on the part of the Detaining Authority.

2.3 There is no need to invoke preventive detention and the failure to mention the period of Detention would vitiate the Order of Detention. The impugned order has been passed in violation of Articles 21 and 22 of the Constitution. Hence, the petitioner has requested to quash the Detention Order and to set the said detenu at liberty.

3.1. In the counter affidavit, the second respondent has stated that the Detention Order has been passed against the detenu, in order to prevent him from indulging in further course of activities, which are prejudicial to the maintenance of public order. Already, the detenu has involved in three grave crimes, and then also in the ground case, and the act of detenu has created insecurity in the minds of the public, which made a compelling necessity to detain him under Tamil Nadu 14 of 1982. Hence, the detenu has been detained under the provisions of Tamil Nadu Act 14 of 1982, in order to prevent him from indulging in further activities, which are prejudicial to the maintenance of public order.



3.2. The second respondent has passed the Detention Order, after adopting all procedures laid down in Tamil Nadu Act 14 of 1982. The remand of extension orders have been supplied to the detenu, as per the details enclosed at Page No.186-190 of the booklet. At the time of passing the Detention Order, the detenu has been kept in the custody of the jail authorities. The activities of the detenu in adverse cases and ground cases, created fear among the public. The second respondent after thorough verification of all documents, and after considering the role played by the detenu, arrived at a subjective satisfaction and passed an Order of Detention against the detenu under the provisions of Tamil Nadu Act 14 of 1982.

3.3. Further, in the counter affidavit filed by the second respondent, as well as, Mr.C.Ramesh, Additional Public Prosecutor appearing on behalf of the respondents, it is pointed out that the Detention Order against the detenu Vikki @ Vigneshwaran, has been passed based on the following three adverse cases:-

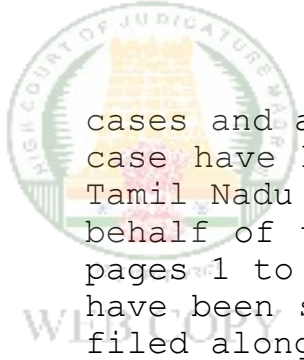
Sl. No.	Police Station and Crime No.	Section of Law	Date of occurrence
1.	Trichy City-Ponmalai PS Cr.No.16 / 2014	341, 294(b), 324, 506(ii) I.P.C.,	14.01.2014
2.	Trichy City-Ponmalai PS Crime No.39 / 2014	387, 506(ii) I.P.C.,	02.02.2014
3.	Pudukkottai District -Pudukkottai Town PS Crime No.135/2014	302, 294(b), 324, 506(ii) I.P.C.,	25.07.2014

4. Based upon the submissions of both sides, the following points arise for consideration:-

1. Whether the impugned Order of Detention has been passed in accordance with the provisions of Tamil Nadu Act 14 of 1982?

2. Whether the order of the preventive detention has been passed on proper and valid grounds?

5. The Order of Detention along with the grounds of detention have been enclosed with the present Habeas Corpus Petition. In the said impugned order and also in the Grounds of Detention, it has been clearly pointed out in each page of the Detention Order and Grounds of Detention that the same have been read over and explained to the detenu and have been served by the Superintendent, Central Prison, Trichy on 23.12.2014 at 17.15 hours. In fact, the detenu has also signed in each page of the Detention Order and also in the Grounds of Detention. Further, in the Grounds of Detention, it has been clearly pointed out that the detenu has already involved in the above mentioned three adverse



cases and also in one ground case and three adverse cases and ground case have been filed for the serious crime under the provisions of Tamil Nadu Act 14 of 1982. Further, along with the booklet filed on behalf of the respondents herein, the respondents have enclosed the pages 1 to 236 to establish that all the relevant records and copies have been supplied to the detenu and based upon the various records filed along with the booklet, the Detaining Authority has passed the said impugned order, after proper application of mind and also after the perusal of the entire materials on record and also after coming to the subjective satisfaction that the detenu will indulge in further criminal activities in future, which will be prejudicial to the maintenance of public peace and public order. Further, in the affidavit enclosed with the present Habeas Corpus Petition itself, the petitioner has admitted that the third respondent has registered the case in Crime No.193 of 2014 for the alleged offence under section 302 I.P.C. and the detenu has been arrested on 27.10.2014 and he has been remanded to the judicial custody on the same day.

6. Further, in the counter affidavit, the second respondent has clearly stated that the detenu has been remanded in Woraiyur P.S. in Crime No.193 of 2014 and in Pudukkottai P.S. in Crime No.135 of 2014 and the Courts are granting bail, considering the period of incarceration and the stage of the case. Further, on a careful consideration of materials on record, the question of non-application of mind does not arise, as stated by the learned counsel for the petitioner. Further, the second respondent has clearly stated in the counter affidavit that the detenu is a habitual offender in criminal activities and the detenu is indulging in criminal activities which are detrimental to the maintenance of public peace and public order and therefore, the Detention Order has been passed to protect the lives of the human beings and properties. Further, in the grounds of Detaining Authority has clearly stated that there is a real possibility of the accused coming out on bail. To substantiate the said possibility, the second respondent also filed the relevant and material records. On a careful perusal of materials on records, it is seen that there are sufficient force in the said contention of the respondents. Further, it is seen that the Detaining Authority has supplied all material records to the detenu, to substantiate the Detention Order passed against him. Furthermore, it is found that the cogent materials have been produced by the respondents to the detenu to make an effective representation. Further, the Detaining Authority has passed the impugned order after taking into consideration of all material aspects and also after arriving at the subjective satisfaction.



7. Further, it is clearly pointed out in the judgment reported in the case of *Kasthuri V. District Collector and District Magistrate* { (2009) 2 MLJ (Cr1) 248}, wherein it is clearly observed as follows:-

" As per various decisions of the Hon'ble Supreme Court, the following factors are considered as violation in preventive detention cases:

a) Non-intimation of the detention order as to any of the family members or friends within a reasonable time.

b) Delay in considering the representation made by the detenu or any other person interested, on behalf of the detenu.

c) Non-supply of copies of material documents relied on by the detaining authority.

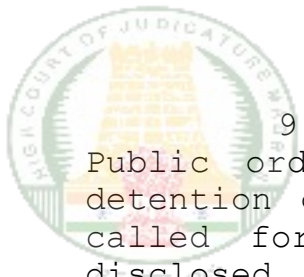
d) Furnishing illegible copies of documents, so as to prevent detenu from making effective representation under the Act.

e) Non-furnishing of copies translated in the language known to the detenu for making effective representation.

f) Non application of mind by detaining authority in having subjective satisfaction while passing the order."

Further, in the present case, on a careful perusal of the entire materials on record, it is found that the Detaining Authority has passed the Detention Order based upon the relevant and material records and also for a valid purpose.

8. The duty of Court is to see that efficacy of safeguards provided in the law of preventive detention is not lost in mechanical, routine, dull casualness and chill indifference, on the part of the Authorities entrusted with their application. However, in the present case, it is found that the second respondent has passed the impugned order, in accordance with law. Further, as per the note submitted on behalf of the Government, it is found that the detenu, namely, Vikki @ Vigneshwaran has not sent any representation as against the impugned Order of Detention, dated 23.12.2014. Further, it is only those documents which are relied upon by the Detaining Authority are the relevant documents which have to be furnished to the detenu. The other documents which are merely 'referred to' documents need not be supplied and the detenu has to provide the prejudice caused because of the non-supply of the 'referred to' documents.



9. The present Detention Order is valid for maintenance of Public order. There are compelling reasons for the preventive detention of the detenu. Hence, this Court's interference is not called for. The Court can only examine whether the grounds disclosed are relevant to the object of the preventive detention Act. There are no material inconsistency affecting validity of the impugned order.

10. For the above mentioned reasons, this Court is of the view that there is no infirmity in the Order of Detention passed against the detenu and no case is made out to interfere with the order of detention dated 23.12.2014 and the Habeas Corpus Petition is dismissed.

sd/-

Assistant Registrar (AE)

/True Copy/

Sub Assistant Registrar

To

1. The Secretary to Government,
Prohibition and Excise Department,
Fort St. George,
Chennai-9.
2. The District Magistrate & District Collector,
Trichy.
3. The Superintendent,
Central Prison,
Trichy.
4. The Joint Secretary to Government
Public (far orders)
Fort St.George- Chennai-9
5. The Commissioner of Police,
Tiruchirappalli City,
Tiruchirappalli.
6. The Inspector of Police,
Woraiyur Police Station,
Tiruchirappalli City.
7. The Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+ 1 CC TO M/S.M.KARUNANITHI, ADVOCATE IN SR NO.40211/15

pmu:

te : 1/08/2015: 6p/9c

Predelivery Order made
in

H.C.P (MD) No.55 of 2015
20.07.2015