

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18-1-2016

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THE HONOURABLE MR.JUSTICE R.SUDHAKAR
and
THE HONOURABLE MR.JUSTICE P.N.PRAKASH

H.C.P.No.1730 & 1736 of 2015

H.C.P.No.1730 of 2015

Selvaraj

... Petitioner

Vs.

1. The State of Tamil Nadu,
rep.by its Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George,
Chennai - 600 009.
2. The Commissioner of Police/Detaining Authority,
O/o.Commissioner Office,
Coimbatore City.
3. The Additional Secretary,
Government of India,
Ministry of Consumer Affairs,
Food and Public Distribution,
(Department of Consumer Affairs),
Room No.270, Krishi Bhawan,
New Delhi - 110 001.

... Respondents

Prayer : Habeas Corpus Petition filed under Article 226 of the Constitution of India, with a prayer to issue a writ of Habeas Corpus to call for the entire records, relating to the petitioner's son detention under Section 3(1) r/w 3(2)(b) of the Prevention of Black Marketing and Maintenance of Supplies of Essential Commodities Act, 1980 (Central Act 7 of 1980) vide detention order, dated 13.7.2015 on the file of the second respondent made in proceedings Memo C.No.09/PBMMSEC Act/IS/2015, quash the same as illegal and consequently direct the respondents to produce the petitioner's son namely S.Manikandan, S/o.Selvaraj, aged 30 years before this Court and set the petitioner's son at liberty from detention.

H.C.P.No.1736 of 2015

Marikkani

... Petitioner

Vs.

1. The State of Tamil Nadu,
rep.by its Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George,
Chennai - 600 009.
2. The Commissioner of Police/Detaining Authority,
O/o.Commissioner Office,
Coimbatore City.
3. The Additional Secretary,
Ministry of Consumer Affairs,
Food and Public Distribution,
(Department of Consumer Affairs),
Room No.270, Krishi Bhawan,
New Delhi - 110 001. ... Respondents

Prayer : Habeas Corpus Petition filed under Article 226 of the Constitution of India, with a prayer to issue a writ of Habeas Corpus to call for the entire records, relating to the petitioner's brother detention under Section 3(1) r/w 3(2) (b) of the Prevention of Black Marketing and Maintenance of Supplies of Essential Commodities Act, 1980 (Central Act 7 of 1980) vide detention order, dated 12.7.2015 on the file of the second respondent made in proceedings Memo C.No.08/PBMMSEC Act/IS/2015, quash the same as illegal and consequently direct the respondents to produce the petitioner's son namely Velkani, S/o.Soundarapandi (Late), aged 38 years before this Court and set the petitioner's brother at liberty from detention.

For Petitioners : -----

For Respondents 1&2 : Mr.M.Maharaja,
Additional Public Prosecutor

For 3rd Respondent : Mr.N.Siva Bharathi, CGSC

COMMON ORDER

P.N.PRAKASH, J.

When these Habeas Corpus Petitions were taken up for hearing on 18.1.2016, Mr.D.Gopi Krishnan, learned Counsel on record for petitioner in both the petitions submitted that he has not filed these petitions, and that these petitions were filed in his name and without his knowledge by Mr.W.Camyles Gandhi, learned Advocate (Enrl.No.1754/2009).

2. We were shocked at this representation and called upon Mr.D.Gopi Krishnan, learned Counsel to file an affidavit in this regard. Accordingly Mr.D.Gopi Krishnan, learned

Counsel filed an affidavit, wherein in paragraphs 2 and 3 he has stated as follows:

"2. I more respectfully submit that last month some HCPs including the above HCPs were listed before this Hon'ble Court and especially in the present HCP I was furnished with the copy of the counter filed by the prosecution. Upon perusing the counter I came to understand that it was not my case and someone had filed the said HCP in my name. In respect of such cases, I have not signed in any vakalat and other petitions.

3. I more respectfully submit that the above submissions shall also be taken into account for the cases filed in H.C.P.Nos.1730, 1736, 1852, 1853, 1871, 1872, 2074, 2840, 2841, 2847, 3092 of 2015."

3. When we questioned Mr.W.Camyles Gandhi about this, he stated that the briefs were his, but he had filed the petitions in the name of Mr.D.Gopi Krishnan, because he did not want his Senior to know that he is practising independently also. He candidly confessed that he has signed as D.Gopi Krishnan in the Vakalatnama, filed in these petitions.

4. We are not satisfied with the reasons proffered by Mr.W.Camyles Gandhi, learned Counsel. We are informed that he has also filed several criminal original petitions in the name of other advocates, which came to the notice of our Brother Judge, B.Rajendran, J., who has referred the matter to the Tamil Nadu Bar Council for initiating disciplinary action against Mr.W.Camyles Gandhi. In our view, such an order should follow suit, even in these petitions.

5. We find from the affidavit filed by Mr.D.Gopi Krishnan that apart from these petitions, Mr.W.Camyles Gandhi has filed HCP Nos.1852, 1853, 1871, 1872, 2074, 2840, 2841, 2847 and 3092 of 2015, by signing as D.Gopi Krishnan. We direct the Assistant Registrar (Criminal Side) of the Registry to take photo copies of the vakalatnama and the petition in HCP Nos.1730, 1736, 1852, 1853, 1871, 1872, 2074, 2840, 2841, 2847 and 3092 of 2015, and after certifying the photo copies, send them with a covering letter together with a copy of this order, to the Secretary, Tamil Nadu Bar Council, for initiating disciplinary action against Mr.W.Camyles Gandhi (Enrl.No.1754/2009) in accordance with the rules, for professional misconduct.

6. In view of the above order and as it is represented that both the counsel on record viz., Mr.S.Vinoth and Mr.D.Gopi Krishnan have not filed these petitions, appearance for the petitioners' counsel has been withheld in the cause title of this order.

7. Coming to the merits of these cases, learned Additional Public Prosecutor has submitted that the detenu in both the cases had already undergone the period of detention, and that both the petitions have become infructuous.

8. Recording the submission of the learned Additional Public Prosecutor, both these petitions are closed with the above directions.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George, Chennai - 600 009.
2. The Commissioner of Police/Detaining Authority,
O/o.Commissioner Office,
Coimbatore City.
3. The Additional Secretary,
Ministry of Consumer Affairs,
Food and Public Distribution
(Department of Consumer Affairs),
Room No.270, Krishi Bhawan,
New Delhi - 110 001.
4. The Public Prosecutor,
High Court, Madras.
5. The Assistant Registrar(Crl.Side),
Criminal Section,
High Court, Madras.
6. The Secretary,
Tamilnadu Bar Council,
Chennai 104.

H.C.P.Nos.1730 & 1736 of 2015

MSM(CO)

CA/22/02/2016)

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