

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.03.2016

CORAM

THE HONOURABLE MR.JUSTICE M.JAICHANDREN
and
THE HONOURABLE MR.JUSTICE S.NAGAMUTHU

H.C.P.No.2412 of 2015

Nagalakshmi
W/o. Karthick

.. Petitioner

Vs.

1. The Government 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,
Chennai City Police, Vepery,
Chennai - 600 007. ... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of habeas corpus directing the detaining authority to produce the detainee, the petitioner's husband Karthick, S/o. Subramani, aged about 25 years, a resident of No.7, KPS Nagar, Kottamedu, Thiruverkadu, Chennai - 600 077, who has been detained under Act 14 of 1982 after having been declared as "Goonda" by order of the 2nd respondent's detention order dated 29.08.2015 and presently confined at the Central Prison, Puzhal, Chennai as TPDA No. 7033 under the Preventive Detention Order in BCDFGISSSV No. 826 of 2015, quash the said detention, set aside the same and set the detainee at liberty.

For Petitioner :: Mr.A. Shiv Kumar

For Respondents :: Mr.A.N.Thambidurai,
Addl. Public Prosecutor

ORDER

[Order of the Court was made by M.JAICHANDREN, J.]

The petitioner, who is the wife of the detenu Karthick, S/o. Subramani, aged about 25 years, a resident of No.7, KPS Nagar, Kottamedu, Thiruverkadu, Chennai - 600 077, has come forward with this petition challenging the detention order passed by the

second respondent, dated 29.08.2015, against her husband branding him as a "Goonda" under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Slum Grabbers and Video Pirates Act, 1982 [Tamil Nadu Act 14 of 1982].

2.Though, many grounds have been raised in the petition, Mr.A. Shiv Kumar, learned counsel appearing for the petitioner, confines his argument only in respect of the non-application of mind, on the part of the detaining authority, in passing the order of detention.

3.Learned counsel appearing for the petitioner submitted that, the F.I.R. copy in Crime No.164 of 2013, on the file of K-3 Aminjikarai Police Station, found in the booklet and furnished to the detenu, are illegible and could not be read and understood. These illegible copies, would deprive the detenu of making an effective representation, to the authorities concerned against the order of detention. Thus, the detention order is vitiated on this ground, and the same is liable to be quashed.

4.Per contra, the learned Additional Public Prosecutor would submit that the order of detention has been passed, on cogent and sufficient materials and the same cannot be interfered with, at the instance of the petitioner. Therefore, he submits that the Habeas Corpus Petition, does not merit any consideration and the same is liable to be dismissed.

5.We have heard the learned counsel for both sides with regard to the facts.

6.A perusal of the booklet supplied to the detenu would show that the copies of documents referred and relied upon and referred to by the Detaining Authority, in Crime No.164 of 2013, on the file of the K-3 Aminjikarai Police Station, found in the booklet at page Nos. 249 to 251, are illegible and are unreadable. This has resulted in the detenu being deprived of making an effective representation. Therefore, the detention order is vitiated and liable to be quashed on this ground alone.

7.It is trite law that, personal liberty protected under Article 21, is so sacrosanct and so high in the scale of Constitutional values that, it is the obligation of the detaining authority to show that the impugned detention meticulously accords with the procedure established by law. Preventive detention is preventive and not punitive. When ordinary law of the land is sufficient to deal with, taking recourse to the preventive detention law is illegal.

8. In the light of the above facts and law, we have no hesitation in quashing the order of detention on the above mentioned ground.

9. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order, in Memo No. 826/BCDFGISSSV/2015, dated 29.08.2015, passed by the second respondent is set aside. The detenu is directed to be released forthwith unless his presence is required in connection with any other case.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

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1. The Secretary to Government,
he Government of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St. George, Chennai - 600 009.
2. The Commissioner of Police,
Chennai City Police, Vepery,
Chennai - 600 007.
3. The Superintendent
Central Prison, Puzhal,
Chennai
4. The Joint Secretary to Government
Public (Law and order) Fort Saint George,
Chennai
5. The Public Prosecutor,
High Court, Madras.

H.C.P.No.2412 of 2015

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