

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 24.02.2016

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THE HONOURABLE MR. JUSTICE S.NAGAMUTHU

AND

THE HONOURABLE MR. JUSTICE K.KALYANASUNDARAM

HCP.No.2442/2015

Kamala

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Petitioner

Vs

1.The Secretary to Government of India
Ministry of Finance
Department of Revenue
New Delhi - 1.

2.The Secretary to Government of Tamil Nadu
Public (Law & Order)
Revenue Department
Secretariat, Chennai 600 009.

3.The Principal Secretary to Government
Public (S.C) Department
Chennai 600 009.

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Respondents

Petition filed under Article 226 of the Constitution of India praying for a writ of Habeas Corpus calling for the records in connection with detention order dated 31.08.2015 and made in G.O.No.S.R.1/63-5/2015 on the file of third respondent herein and set aside the same and direct the respondents herein to produce Mr.A.Jeevanantham, Son of S.Annamalai, aged about 39 years, who is now confined in Central Prison, Puzhal before this Court and set him at liberty.

For Petitioner : Mr.V.R.Appaswamee

For Respondents: Mr.J.Madhanagopal Rao
ACGSC for R1
Mr.M.Maharaja

Addl.Public Prosecutor for RR2 and 3

ORDER

[Judgment of the court was delivered by S.NAGAMUTHU, J.]

The petitioner is the mother of one Mr.A.Jeevanantham, son of S.Annamalai, who has been detained in the Central Prison, Puzhal, Chennai, in pursuance of the detention order passed by the 3rd respondent under section 3[1][ii] of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 [Central Act 52 of 1974] in G.O.No.SR.1/63-4/2015 Public [SC] Department dated 17.08.2015. Challenging the same, the petitioner is before this Court with this petition.

2. We have heard the learned counsel appearing for the petitioner, the learned Additional Central Government Standing Counsel appearing for the first respondent and the learned Additional Public Prosecutor appearing for the State and we have also perused the records carefully.

3. The learned counsel for the petitioner submits that the detention order is vitiated on the sole ground, that the period of detention has not been specified in the detention order. In order to substantiate this point, the learned counsel relies on the judgment of the Hon'ble Supreme Court in Commissioner of Police and another v. Gurbux Anandram Bhiryani [1988 (Supp) Supreme Court Cases 568] and a judgment of this Court in S.Santhi v. The Secretary to Government, Home, Prohibition and Excise Department, Secretariat, Chennai and another [2010(3)MWN (Cr.) 42 (DB)].

4. We have perused the detention order, which admittedly does not contain the period of detention. As it has been held by the Hon'ble Supreme Court as well as this Court referred to above, the said detention order, therefore, stands vitiated.

5. Accordingly, the Habeas Corpus Petition is allowed and the detention order passed by the 3rd respondent dated 31.08.2015 in G.O.No.SR.1/63-5/2015 Public [SC] Department is hereby set aside. The detenu, viz., A.Jeevanantham, son of S.Annamalai, who is now confined at the Central Prison, Puzhal, Chennai, is hereby directed to set at liberty, unless his presence is required in connection with any other case.

Sd/-

Asst.Registrar (CS VII)

/true copy/

Sub Asst. Registrar

gms

To

1.The Secretary to Government of India
Ministry of Finance, Department of Revenue
New Delhi - 1.

2.The Secretary to Government of Tamil Nadu
Public (Law & Order)
Revenue Department, Secretariat, Chennai 600 009.

3.The Principal Secretary to Government
Public (S.C) Department, Chennai 600 009.

4.The Superintendent of Central Prison
Puzhal, Chennai 600 066.

5.The Public Prosecutor, High Court, Chennai.

6. The Joint Secretary to Government
Public (Law and order)
Fort St. George, Chennai-9

1 cc to Mr.J. Madanagopal Rao, Advocate, Sr. 11655

1 cc to Public Prosecutor, Sd. 12103

1 cc to Mr.V.R. Appaswamee, Advocate, Sr 12033

HCP.No.2442/2015

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