

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.04.2016

CORAM

THE HON'BLE MR.JUSTICE M.JAICHANDREN
and
THE HON'BLE MR.JUSTICE S.NAGAMUTHU

H.C.P.No.2831/2015

Lakshmi

.. 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,
Salem City.

3.The Superintendent,
Central Prison,
Salem-7

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS to call for the entire records leading to the detention of petitioner's son Nithiyanandam, son of Mariappan, aged 32 years, presently detained in Central Prison, Salem, under Act 14 of 1982, as a 'Goonda' vide the detention order dated 11.09.2015, in C.M.P.No.73/Salem City/2015, on the file of the 2nd respondent herein, directing to produce body or the person of the detenu, before this Court and thereafter set him at liberty from the Central Prison, Salem, by setting aside the above order.

For Petitioner : Mr.Vasudevan

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

ORDER

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

This Habeas Corpus Petition has been filed, by the

mother of the detenu, namely, Nithiyanandam, son of Mariappan, aged about 32 years, praying that this Court may be pleased to issue a Writ of Habeas Corpus, to call for the records, in Memo No.73/Goonda/Salem City/2015, dated 11.09.2015, passed by the 2nd Respondent, detaining the detenu under Section 3(1) of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Cyber Law Offenders, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14/1982), branding him as a "Goonda", in the Central Prison, Salem, and to quash the same and to direct the Respondents to produce the body of the detenu and set him at liberty, forthwith.

2. We have heard the learned counsel appearing on behalf of the petitioner and the learned Additional Public Prosecutor appearing on behalf of the State and we have also perused the records, carefully.

3. Though, a number of grounds had been raised by the petitioner, while challenging the impugned order of detention, dated 11.09.2015, the learned counsel, appearing on behalf of the petitioner, had submitted that, the detaining authority had stated in the grounds of detention that the detenu had made a confession to the investigating officer with regard to his name and address and with regard to the act of theft of money, which he is said to have committed. He had further submitted that, though, the detaining authority has relied on the said confession statement to pass the detention order, the said confession statement furnished to the detenu, is illegible and hence, the detenu had been prevented from making an effective representation against the impugned order of detention.

4. The said submission made by the learned counsel appearing on behalf of the petitioner, had not been refuted by the learned Additional Public Prosecutor.

5. It is noted from the grounds of detention that the detenu had made a confession with regard to his name and address and with regard to the act of theft of money, which he is said to have committed. Though, the detaining authority has relied on the said confession statement to pass the detention order, it is noted from page Nos.12 and 13 of the book-let, furnished to the detenu, that the said confession statements, both in the English and in the vernacular, are illegible and it could not be read at all. The furnishing of such illegible copies of the confession statement, would prejudice the detenu, in making an effective representation. In such circumstances, we find that there is non-application of mind on the part of the detaining authority, in passing the detention order. Therefore, we are inclined to

set aside the impugned detention order.

6. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order, dated 11.09.2015, 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/-
Assistant Registrar (CO)

//True Copy//

Sub Assistant Registrar

msk

To

1. The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai-600 009

2. The Commissioner of Police,
Salem City.

3. The Superintendent,
Central Prison,
Salem-7.

(In duplicate for communication to detenu)

4. The Joint Secretary to Government,
Public (Law & Order) Department,
Fort St. George, Chennai 9.

5. The Additional Public Prosecutor,
High Court, Madras.

1 cc to M/s.B.Vasudevan, Advocate, sr.21578

sai co
kra 24.05.2016

H.C.P.No.2831/2015