

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.04.2016

CORAM

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

H.C.P.No. 2923/2015

G.Malarkodi

.. Petitioner

Vs

1.The State of Tamilnadu  
rep. by Secretary to Government  
Home, Prohibition and Excise Department  
Government of Tamil Nadu  
Fort St.George  
Chennai-600 009.

2.The Commissioner of Police  
Egmore  
Chennai-600 008.

.. 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 the petitioner's son, namely, Raja @ Chinna Raja, S/o.Govindan, aged about 23 years, under Act 14 of 1982, as a 'Goonda' vide the detention order dated 05.10.2015, on the file of the 2<sup>nd</sup> respondent, made in Memo No. 1091/ BCDFGISSSV/2015, and quash the same and consequently, to direct the respondents to produce the body and the person of the detenu, before this Court and thereafter, to set him at liberty from the Central Prison, Puzhal, Chennai.

For Petitioner : Mr.V.Vargees Amal Raja

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, praying that this Court may be pleased to issue a Writ of Habeas Corpus, to call for the records in Memo No.1091/ BCDFGISSSV/2015, dated 05.10.2015, passed by the 2nd Respondent, detaining the detenu, namely, Raja @ Chinna Raja, S/o.Govindan, Male, aged 23 years, 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, Puzhal, Chennai, and to quash the same and to direct the respondents to produce the body of the detenu and to set him at liberty, forthwith.

2. We have heard, Mr.V.Vargees Amal Raja, the learned counsel appearing on behalf of the petitioner; Mr.A.N.Thambidurai, 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 05.10.2015, the learned counsel, appearing on behalf of the petitioner, had submitted that, in the page Nos.43 and 105 of the booklet supplied to the detenu, the copy of the First Information Report, relating to the 2<sup>nd</sup> adverse case in R11 Rayala Nagar Police Station Crime No.1701 of 2015 and 4<sup>th</sup> adverse case in R11 Rayala Nagar Police Station Crime No.1993/2015, is illegible, and could not be read at all. This illegible copy would deprive the detenu of making 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. 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 that in the page Nos.43 and 105 of the booklet supplied to the detenu, the copy of the First Information Report, relating to the 2<sup>nd</sup> adverse case in R11 Rayala Nagar Police Station Crime No.1701 of 2015 and 4<sup>th</sup> adverse case in R11 Rayala Nagar Police Station Crime No.1993/2015, is illegible, and totally unreadable. This has resulted in the detenu being deprived of 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 05.10.2015, 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 IV )

/true copy/

Sub Asst. Registrar

paa

To

- 1.The Secretary to Government  
The State of Tamilnadu  
Home, Prohibition and Excise Department  
Government of Tamil Nadu  
Fort St.George  
Chennai-600 009.
- 2.The Commissioner of Police  
Egmore  
Chennai-600 008.
- 3.The Superintendent  
Central Prison, Puzhal, Chennai.
4. The Joint Secretary to Government  
Public (Law and order)  
Fort St. George, Chennai-9
- 5.The Additional Public Prosecutor,  
High Court, Madras.

H.C.P.No.2923/2015

PPA (CO)  
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