

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.2982/2015

Priya

.. 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 District Magistrate and
District Collector,
Salem District,
Salem

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS to produce the body of the detenu namely, Sakthi @ Sakthivel, son of Gopal, aged about 28 years, before this Court and set him at liberty forthwith, by calling for the records pertaining to the detention order in C.M.P.No.69/Goonda/2015(M-1), dated 19.10.2015, passed by the 2nd respondent, quash the same as illegal, incompetent and ultravires.

For Petitioner : Mr.R.Ezhilarasan

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 wife of the detenu, namely, Sakthivel, son of Gopal, aged about 28 years, praying that this Court may be pleased to issue a Writ of Habeas Corpus, to call for the records, in C.M.P.No.69/Goonda/2015/M1, dated 19.10.2015, 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 "Sand Offender", in the Central Prison, Salem, Chennai-66, 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 several grounds have been raised in this Habeas Corpus Petition, Mr.R.Ezhilarasan, the learned counsel appearing on behalf of the petitioner, has assailed the impugned detention order only on the ground that the vernacular version viz., the Tamil version, [the only language which the detenu understands], of the detention order has not been furnished to the detenu though the English version of the same is furnished. This non-furnishing of the vernacular version of the detention order has deprived the detenu of making an effective representation. This has not been duly verified by the Detaining Authority, before passing the order of detention. Therefore, it is submitted that this is indicative of total non-application of mind on the part of the detaining authority and the same vitiates the detention order.

4. The said submissions 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 Booklet furnished to the detenu, the English version of the impugned detention order, dated 19.10.2015, has been furnished to the detenu, but the vernacular version of the same has not been furnished to the detenu. The non-furnishing of the vital document in the vernacular version, viz., in the Tamil version, which is the only language the detenu could understand, has deprived the detenu from making an effective representation. Whatever documents referred to and relied upon by the Detaining Authority has to be translated and given in Tamil version, as the detenu knows only Tamil. Therefore, the above discrepancy vitiates the detention order and therefore, the detention order is liable to be set aside.

6. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order, dated 19.10.2015, 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/-
Assistant Registrar(CS IV)

//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 District Magistrate and
District Collector,
Salem District,
Salem.
 3. The Superintendent,
Central Prison,
Salem.
 4. The Joint Secretary to Government,
Public (Law & order) Fort St. George, Chennai -9
 5. The Additional Public Prosecutor,
High Court, Madras.
- + 1 cc to M/s. R. Ezhilarasan, Advocate Sr.21796

H.C.P.No.2982/2015

AD(CO)
EU 12.05.16

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