

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.3001 of 2015

Karthick

... Petitioner/Detenu

Vs

1. The State of Tamil Nadu,
rep.by its Secretary to Government (Home)
Prohibition & Excise Department,
Secretariat, Chennai-9

2. The Commissioner of Police,
Chennai Police, Chennai.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS calling for the entire records, relating to petitioner's detention under Tamil Nadu Act 14 of 1982, vide detention order, dated 29.07.2015, on the file of the second respondent herein, made in proceedings BCDFGISSSV No.640/2015 and quash the same as illegal and consequently direct the respondents herein to produce the said petitioner namely Karthick, son of Ravi, aged 28 years, before this Court and set the petitioner at liberty from detention, now petitioner detained at Central Prison-II, Puzhal, Chennai-600 066.

For Petitioner : Mr.C.C.Chellappan

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 detenu, namely, Karthick, aged about 28 years, son of Ravi, praying that this Court may be pleased to issue a Writ of Habeas Corpus, to call for the records, in BCDFGISSSV No.640/2015, dated 29.07.2015, passed by the 2nd Respondent,

detaining him under Section 3(1) of 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 14/1982), the Tamil Nadu Act 14 of 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 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.C.C.Chellappan, the learned counsel, appearing on behalf of the petitioner, has assailed the impugned detention order only on the ground of supply of illegible copy of Form-95, in respect of the ground case in Crime No.868 of 2015, under Sections 341, 294(b), 353, 336, 427, 307 and 506(ii) of the Indian Penal Code, referred to in the grounds of detention, for arriving at the subjective satisfaction that there is likelihood of the detenu coming out on bail, which has affected the constitutional right of making an effective and purposeful representation to the authorities concerned, thereby vitiating the detention.

4. Per contra, Mr.A.N.Thambidurai, the learned Additional Public Prosecutor, appearing on behalf of the respondents, would submit that the impugned detention order has been passed on cogent and sufficient materials and there is no illegality or infirmity in the impugned order of detention. However, he had submitted that the copy of Form-95, in respect of the ground case, in Crime No.868 of 2015, under Sections 341, 294(b), 353, 336, 427, 307 and 506(ii) of the Indian Penal Code, furnished to the detenu, is illegible.

5. We have given our careful and anxious consideration to the rival submissions put forth by the learned counsel on either side and thoroughly scanned through the impugned detention order and the entire materials available on record.

6. It is seen from paragraph 4 of the Grounds of Detention that in a similar case, the accused was remanded in H-6 Dr.R.K.Nagar Police Station Crime No.868 of 2015. On a perusal of the Paper Book furnished by the Prosecution, it is seen that copy of Form-95, in respect of the ground case, in Crime No.868 of 2015, under Sections 341, 294(b), 353, 336, 427, 307 and 506(ii) of the Indian Penal Code, furnished to the detenu, is

illegible and could not be read at all. Therefore, supply of such illegible copy of Form-95, in the ground case, to the detenu, would vitiate the impugned detention order.

7. As already analysed by us, in the facts and circumstances of the present case, the supply of illegible copy of Form-95, in the ground case, to the detenu, has the effect of vitiating the impugned detention order. Further, due to the defect in such a vital document, the detenu has lost his valuable right to make an effective representation to the authorities concerned. Therefore, the impugned order of detention is vitiated and the same is liable to be quashed.

8. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order, dated 29.07.2015, 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 & Excise Department,
Secretariat, Chennai-9.
2. The Commissioner of Police,
Chennai Police, Vepery, Chennai.
3. The Superintendent of Police,
Central Prison, Puzhal,
Chennai.
4. The Joint Secretary to Government,
Public(Law & Order),
Fort Saint George, Chennai - 9.
5. The Additional Public Prosecutor,
High Court, Madras.

H.C.P.No.3001 of 2015

SR(CO)

CA(06/05/2016)