

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.04.2016

CORAM

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

H.C.P.No.3103 of 2015

S.Mala

... Petitioner

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 records relating to the detention order passed in Memo No.588/BCDFGISSSV/2015, dated 22.07.2015, passed by the 2nd respondent and to quash the same and direct the respondents to produce the body of the detenu Murali, aged about 24 years, son of Santhanam, who is presently in Central Prison, Chennai, before this Court and set him at liberty.

For Petitioner : Mr.V.Devendhiran

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, Murali, son of Santhanam, aged about 24 years, praying that this Court may be pleased to issue a Writ of Habeas Corpus, to call for the records, in Memo No.588/BCDFGISSSV/2015, dated 22.07.2015, passed by the 2nd Respondent, detaining the detenu, 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.V.Devendhiran, 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 First Information Report, in similar cases, registered at T1 Ambattur Police Station Crime Nos.1106/2015 and 1203/2015, 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 the First Information Report, in similar cases, 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 similar cases in T.1 Ambathur Police Station Crime Nos.1106 of 2015 and 1203 of 2015, the accused has moved bail applications, in CrI.M.P.Nos.2915 of 2015 and 1853 of 2015 respectively, on the file of the learned Judicial Magistrate, Ambattur, for offences under Sections 147, 341, 294-b, 392 and 506(ii) of I.P.C. and 341, 294-b, 336, 427, 392, 397 and 506(ii) of I.P.C. On a perusal of the Paper Book furnished by the Prosecution, it is seen that the First Information Reports, in the said cases, registered at T.1 Ambathur Police Station Crime Nos.1106 of 2015 and 1203 of 2015, furnished to the detenu, are illegible and could not be read at all. The said materials filed in similar cases were documents relied upon by

the Detaining Authority to come to a subjective satisfaction that the detenu was likely to be released on bail. Therefore, supply of such illegible copy of the First Information Reports, in similar cases, 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 the First Information Reports, filed in similar cases, to the detenu, has the effect of vitiating the impugned detention order. Further, due to the defect in such vital documents, 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 22.07.2015, 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 VII)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government,
Home, Prohibition & Excise Department,
Secretariat, Chennai-9
2. The Commissioner of Police,
Chennai Police, 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.3103 of 2015

KS(CO)
CA(28/04/2016)