

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.04.2016

CORAM

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

H.C.P.No.3105/2015

Thiru Ashok .. Petitioner

Vs

- 1 The Commissioner of Police
Chennai Police.
- 2 The Secretary
Government of Tamil Nadu
Home, Prohibition & Excise Department
Secretariat, Chennai 600009. .. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS to call for the records in connection with the order of detention passed by the first respondent dated 18.09.2015 in proceedings Memo No.968/BCDFGISSSV/2015 and set aside the same and produce the detenu namely Ashok, aged 27 years, S/o.Anandan, now confined at Central Prison, Puzhal, before this Court, set him at liberty.

For Petitioner : Ms.S.Veeramarthini

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 himself, praying that this Court may be pleased to issue a Writ of Habeas Corpus, to call for the records, in proceedings Memo No.968/BCDFGISSSV/2015, dated 18.09.2015, passed by the first Respondent, detaining the detenu/petitioner herein, 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, Ms.D.Veeramarthini, 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 18.09.2015, the learned counsel, appearing on behalf of the petitioner, had submitted that, page Nos.104, 105 and 108 of the booklet supplied to the detenu, relating to the First Information Report and the Charge Sheet, in respect of the similar case in M8 Sathangadu Police Station Crime No.710 of 2014, are illegible, and could not be read at all. This illegible copies 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 the copies of documents referred to and relied upon by the detaining authority, in particular, page Nos.104, 105 and 108 of the booklet supplied to the detenu, relating to the First Information Report and the Charge Sheet, in respect of the similar case in M8 Sathangadu Police Station Crime No.710/2014, are illegible, and are 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 18.09.2015, passed by the first respondent is set aside. The detenu is directed to be released forthwith, unless his presence is required in connection with any other case.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

- 1 The Commissioner of Police
Chennai Police.
- 2 The Secretary
Government of Tamil Nadu
Home, Prohibition & Excise Department
Secretariat, Chennai 600009.
- 3 The Superintendent
Central Prison, Puzhal, Chennai.
- 4 The Additional Public Prosecutor,
High Court, Madras.
5. The Joint Secretary to Government
Public law and order
Fort St.George
chennai-9

+1 cc to Mr.A.Veeramarthini Advocate sr.22721

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