

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.04.2016

CORAM

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

H.C.P.No.3185/2015

P.Subramani

.. Petitioner/Father of the
detenuue

Vs

1.The State of Tamil Nadu,
rep.by the Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai-600 009

2.The Commissioner of Police,
Office of the Commissioner of Police
Vepery,
Chennai-600 007.

.. 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, Vijayakumar, S/o.Subramani, aged about 31 years, presently detained in Central Prison, Puzhal, Chennai-600 066, under Tamil Nadu Act 14 of 1982, as a 'Goonda' vide the detention order dated 17.08.2015, in Memo No.750/BCDFGISSSV/2015, on the file of the 2nd respondent herein, directing to produce body or the person of the detenu, before this Court and thereafter set him at liberty from the Central Prison, Puzhal, Chennai-600 066, by setting aside the above order.

For Petitioner : Mr.P.K.Ilavarasan

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 father 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. 750/BCDFGISSSV/2015, dated 17.08.2015, passed by the 2nd Respondent, detaining the detenu, namely, Vijayakumar, S/o.Subramani, aged about 31 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.P.K.Ilavarasan, 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 17.08.2015, the learned counsel, appearing on behalf of the petitioner, had submitted that page Nos.17, 18, 21 and 22 of the booklet supplied to the detenu, which contain the copy of the Mahazars relating to the 2nd adverse case in Arambakkam Police Station Crime No.340 of 2010, are totally illegible and could not be read at all, and hence, the detenu had been prevented from making an effective representation against the impugned order of detention.

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 page Nos.17, 18, 21 and 22 of the booklet furnished to the detenu, which contain the copy of the Mahazars relating to the 2nd adverse case in Arambakkam Police Station Crime No.340 of 2010, are totally illegible and unreadable. The furnishing of such illegible copy of the Mahazars, would prejudice the detenu, in 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 17.08.2015, 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

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To

1. The Secretary to Government
The State of Tamil Nadu,
Home, Prohibition and Excise Department,
Secretariat, Chennai-600 009
2. The Commissioner of Police,
Office of the Commissioner of Police
Vepery, Chennai-600 007.
3. The Superintendent,
Central Prison,
Puzhal, Chennai.
4. The Additional Public Prosecutor,
High Court, Madras.
5. The Joint Secretary to Government
Public (Law & Order), Fort Saint George,
Chennai 9.

sr co
kra 09.05.2016

H.C.P.No.3185/2015

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