

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.04.2016

CORAM:

THE HONOURABLE MR. JUSTICE M.JAICHANDREN
AND
THE HONOURABLE MR. JUSTICE S.NAGAMUTHU

H.C.P.No.3240 of 2015

Chellappan

... Petitioner

-Vs-

1.The State of Tamil Nadu
Rep. by its Secretary to Govt., Home
Prohibition and Excise Department
Secretariat, Chennai 600 009.

2.The Commissioner of Police
Greater Chennai Police
Vepery, Chennai 7.

... Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Habeas Corpus, to call for the records of the detention made in Memo No.1213/BCDFGISSSV/2015 dated 27.11.2015 passed by the Commissioner of Police, Greter Chennai Police, Vepery, Chennai - 7, the second respondent herein and set aside the same and direct the respondents to produce the detenu before this Court and set the detenu Moorthi, S/o Chellappan, aged 28 years now confined in Central Prison, Puzhal II, Chennai at liberty.

For Petitioner : Mr.R.Balakrishnan

For Respondents : Mr.A.N.Thambidurai
Additional Public Prosecutor

O R D E R

[Order of the Court was made by M.JAICHANDREN, J.]

This Habeas Corpus Petition has been filed by the father of the detenu, namely, Moorthi, S/o Chellappan, aged about 28 years to issue a Writ of Habeas Corpus, calling for the records relating to the impugned order passed by the 2nd respondent in

Memo No.1213/BCDFGISSSV/2015 dated 27.11.2015, 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, Sexual Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14/1982), branding him as a "Goonda" as contemplated u/s 2 (f) of the Tamil Nadu Act 14 of 1982, and to quash the same, produce him before this Court and to set him at liberty.

2. Though many grounds have been raised in the petition, Mr.R.Balakrishnan, the learned counsel appearing for the petitioner, confines his argument only in respect of non-application of mind on the part of the detaining authority in passing the order of detention.

3. Learned counsel appearing for the petitioner submitted that the Detaining Authority has relied upon a similar case registered by Red Hills Police Station in Cr.No.360/2013 wherein bail was granted to the accused by this Court in CrI.O.P.No.9556/2013. But the Tamil version of the Post-mortem Certificate has not been furnished to the detenu though the English version is furnished. This non-furnishing of the important aspect in the vernacular version has deprived of the detenu from 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 and is unsustainable in law.

4. Per contra, the learned Additional Public Prosecutor would submit that the order of detention has been passed on cogent and sufficient materials and the same cannot be interfered with at the instance of the petitioner. Therefore, he submits that the Habeas Corpus Petition does not merit any consideration and the same is liable to be dismissed.

5. We have heard the learned counsel for both sides with regard to the facts.

6. As evidenced from page nos.41 and 42 of the Booklet furnished to the detenu, the English version of the Post-mortem Certificate relating to the similar case in Cr.No.360/2013 registered by the Red Hills Police Station, has been furnished and 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 language the detenu could understand, has deprived the detenu from making an effective representation. Therefore, the above discrepancy

vitiates the detention order and the same is liable to be set aside.

7. In the light of the above facts, we have no hesitation in quashing the order of detention on the above mentioned grounds.

8. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order passed by the 2nd 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 III)

//True Copy//

Sub Assistant Registrar

gms

To

1.The State of Tamil Nadu
Rep. by its Secretary to Govt., Home
Prohibition and Excise Department
Secretariat, Chennai 600 009.

2.The Commissioner of Police
Greater Chennai Police
Vepery, Chennai 7.

3.The Superintendent,
Central Prison,
Puzhal II, Chennai 66.

4.The Joint Secretary to Government,
Public(Law & Order),
Fort Saint George, Chennai - 9.

5.The Public Prosecutor,
Madras High Court, Chennai.

H.C.P.No.3240 of 2015

KS(CO)
CA(27/05/2016)