

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 08.01.2016

CORAM

THE HONOURABLE MR.JUSTICE M.M. SUNDRESH

W.P.No.35506 of 2015
and
M.P.No.1 of 2015

S.Saruvagan
No.3/176A, Aravanoor,
Melapandamangalam,
Maruthandakurichi,
Trichi 102

... Petitioner

- Vs -

1. The Government of Tamilnadu
Rep by its Secretary,
Department of Home Affairs,
Secretariat, Fort St.George,
Chennai 600 009.
- 2 The Commissioner of Police,
Office of the Commissioner of Police,
Vepery, Chennai 600 007.
3. The Inspector of Police,
Chennai Crime Branch,
(Cyber Crime Wing),
Veperi, Chennai 600 007.
4. Ms.Nathiya, Sub-Inspector of Police,
O/o.Chennai Crime Branch,
(Cyber Crime Wing),
Vepery, Chennai 600 007.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue Writ of mandamus, forbearing the 2nd and 3rd respondents from passing any order against the petitioner's father namely Kovan @ Sivadas aged about 53 years having residence at No.3/176, A.Aravanoor, Melapandamangalam, Maruthandakuruchi, Trichy-102, from detaining him under the preventive detention in particularly National Security Act, 1980 and further direct the 1st and 2nd respondent to take appropriate action against the 4th respondent and other police officials based on the representation made by the petitioner dated 31.10.2015.

For Petitioner : Mr.R.Sankarasubbu for
M/s.S.Jimraj Milton

For Respondents 1 to 4 : Mr.AL.Somayaji, Advocate General
Asst. by Mr.A.Kumar,
Special Government Pleader

ORDER

Apprehending that the respondents would initiate action under the preventive detention in particularly National Security Act, 1980 and detain his father, the petitioner has come forward to file this Writ Petition.

2. Today, Counter Affidavit has been filed, in which at para 11 it has been stated as follows:-

As regards the averments made in para 9 to 15, it is submitted that as referred to earlier, petitioner's father Tr.S.Kovan @ Sivados is habitually indulging in offences against the State. That apart he is involved in two cases in Dindigul District, reported in Thandikudi Police Station Cr.No.52 of 2015 under Sections 121, 143, 188, 153A, 160 and 149 IPC registered on 24.3.2015 and Kodaikanal Police Station Cr.No.118 of 2015 under Sections 143, 188, 121, 153 and 160 IPC registered on 24.3.2015. The petitioner's father was absconding and wanted in both the cases. The petitioner's father and his group cadres instigated the innocent tribal against the State and thereby creating hatred and disaffection to State. But, however this respondent specifically submits being the sponsoring authority has till date not initiated any action to detain the petitioner's father Tr.S.Kovan @ Sivados neither under Act 14/1982 nor under National Security Act 1980. The averments made in the aforesaid paras by the petitioner are wholly based on misconception and only based on assumption. However, it is always open to the executive machinery to invoke the Acts against the petitioner following due process of law. It is pointed out that nothing would prevent the petitioner nor his father to challenge the same as and when situation warrants. Thus, the prayer of the petitioner to deter this respondent to invoke Preventive Detention or National Security Act, 1980 is wholly illegal and seeking such an order is unsustainable in law. The allegation that, as stated in para No.12 the petitioner apprehend this respondent purposefully aim to detain his father under preventive

detention or under the National Security Act, 1980 are all based on misconception and frivolous assumption.

2. The learned Advocate General, based upon the averments made in the counter affidavit submitted that as of now there is no decision made to invoke preventive detention laws against the petitioner's father and therefore the Writ Petition is misconceived.

3. Considering the stand taken in the counter affidavit and in view of the statement made by the learned Advocate General, the Writ Petition stands disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

srn/mrp
To

1. The Secretary,
Government of Tamilnadu
Department of Home Affairs,
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Chennai 600 009.
- 2 The Commissioner of Police,
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VGI CO
KRA 25.01.2016