

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.10.2016

CORAM

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

H.C.P.No.1005 of 2016

J.Jenifer

... Petitioner

Vs

1. The State of Tamil Nadu,
rep by its Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George, Chennai-600 009.

2. The District Magistrate and
District Collector,
Kancheepuram,
Kancheepuram District.

... 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 second respondent in his proceedings BCDFGISSSV No.35/2016, dated 29.4.2016, against the detenu John Wesley, son of Samuvel, aged about 35 years, who is confined at Central Prison, Puzhal, Chennai and set aside the same and to direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner : Mr.S.Soundhararajan

For Respondents : Mr.V.M.R.Rajentran,
Additional Public Prosecutor

ORDER

[Order of the Court was made by S.BASKARAN, J.]

This Habeas Corpus Petition has been filed by the wife of the detenu, namely, John Wesley, son of Samuvel, aged about 35 years, to issue a Writ of Habeas Corpus, to call for the records, in BCDFGISSSV No.35/2016, dated 29.4.2016, passed by

the second 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 of 1982), branding him as a "Sand Offender", in the Central Prison, Puzhal, Chennai, and to quash the same and to direct the Respondents to produce the body of the detenu and set him at liberty forthwith.

2. We have heard the learned counsel appearing on behalf of the petitioner, as well as the learned Additional Public Prosecutor appearing for the State and we have also perused the records, carefully.

3. The learned counsel appearing on behalf of the petitioner had contended that there is variation between the English version and the Vernacular version of the remand order, dated 13.4.2016 furnished to the detenu, which are available in page Nos.131 and 133 of the booklet furnished to the detenu. In the English version of the order, dated 13.4.2016, it had been stated that the accused had said that he was arrested by the police officials on 11.4.2016 and was beaten up by the police. But the same is missing in the vernacular version. In the vernacular version, it had been stated that the accused had said that there is no complaint against the police. According to the petitioner, what is found in the vernacular version had been reflected in page No.197 of the booklet. Therefore, the material fact had been suppressed before the detaining authority. Thus, the impugned order of detention is vitiated.

4. The said submissions made by the learned counsel appearing on behalf of the petitioner had not been refuted by the learned Additional Public Prosecutor appearing on behalf of the respondents.

5. It is noted from the records available that there is variation between the English version and the Vernacular version of the remand order, dated 13.4.2016, furnished to the detenu. The English version had been furnished in page No.131 and the vernacular version is found available in page No.133 of the booklet. In the English version of the order, dated 13.4.2016, it had been stated that the accused had said that he was arrested by the police officials on 11.4.2016 and was beaten up by the police. But, in the vernacular version, it had been stated that the accused had said that there is no complaint against the police. Therefore, the material fact was suppressed before the detaining authority. Thus, the detention order is vitiated and the same is liable to be quashed.

6. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order, dated 29.4.2016, 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 II)

//True Copy//

Sub Assistant Registrar

vvk

To

1. The Secretary to Government,
The State of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St. George, Chennai-600 009.
2. The District Magistrate and
District Collector,
Kancheepuram,
Kancheepuram District.
3. The Superintendent,
Central Prison,
Puzhal, Chennai.
4. The Joint Secretary to Government,
Public(Law & Order),
Fort Saint George, Chennai - 9.
5. The Public Prosecutor,
High Court, Madras.

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H.C.P.No.1005 of 2016

RJ(CO)
CA(24/11/2016)