

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.11.2016

CORAM

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

H.C.P.No.1023 of 2016

Parameswari

.. Petitioner

Vs

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

2.The District Collector and
District Magistrate of Vellore District,
Vellore-9.

.. 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 relating to the petitioner's husband detention, under Tamil Nadu Act 14 of 1982, vide detention order, dated 23.4.2016, on the file of the second respondent herein, made in proceedings C3.D.O.No.27/2016 and to quash the same, as illegal and consequently, to direct the respondents herein to produce the said petitioner's husband, namely Thalaiyan @ Sivanandam, son of Munisamy, aged 30 years, who is now confined at the Central Prison, Vellore, before this Court and set him at liberty from detention.

For Petitioner : Mr.C.C.Chellappan

For Respondents : Mr.V.M.R.Rajentren

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, Thalaiyan @ Sivanandam, son of Munisamy, aged about 30 years, to issue a Writ of Habeas Corpus, to call for the records, in C3.D.O.No.27/2016, dated 23.4.2016, 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 “Bootlegger”, in the Central Prison, Vellore, 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. Though several grounds have been raised in this Habeas Corpus Petition, the learned counsel appearing on behalf of the petitioner, has

contended that the detenu was arrested, in the ground case, in Crime No.145 of 2016, on the file of the Veppankuppam Police Station and the same was considered by the Detaining Authority, while passing the detention order. However, the fourth adverse case, in Crime No.96 of 2016, on the file of the Veppankuppam Police Station, wherein the detenu was arrested, was not considered by the Detaining Authority while passing the impugned order of detention. According to the petitioner, the non consideration of the fourth adverse case by the detaining authority shows his lack of application of mind, while passing the detention order.

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 the Detaining Authority, while passing the detention order, had considered the ground case registered in Crime No.145 of 2016, on the file of the Veppankuppam Police Station. However, on a perusal of the detention order, it is clear that the fourth adverse case, in Crime No.96 of 2016, on the file of the same police station, wherein the detenu had been arrested, was not considered by the Detaining Authority, while passing the order of detention. In such circumstances, the non consideration of the fourth adverse case by the Detaining Authority in the order of detention, has caused prejudice to the detenu. This shows the non application of mind on the part of the detaining authority, while passing the detention order.

Therefore, we are inclined to set aside the detention order.

6. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order, dated 23.4.2016, 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.

[M.J.,J.] [S.B.,J.]

14.11.2016

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To

1. The Secretary to Government,
State of Tamil Nadu
Home, Prohibition and Excise Department,
Fort St.George, Chennai-600 009.
- 2.The District Collector and
District Magistrate of Vellore District,
Vellore-9.
- 3.The Public Prosecutor,
High Court, Madras.

M.JAICHANDREN,J.
AND
S.BASKARAN, J.

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