

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.11.2016

CORAM

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

H.C.P.No.1090 of 2016

Chandrammal

.. Petitioner

Vs

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

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

.. 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 detention order made in BCDFGISSSV No.13/2016, dated 11.2.2016, passed by the second respondent and to set aside the same and to direct the respondents to produce the detenu Sekar, son of Krishnan, aged about 28 years, now confined at the Central Prison, Puzhal, Chennai, before this Court and set him at liberty.

For Petitioner : Mr.N.Sudharsan

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 mother of the detenu, namely, Sekar, son of Krishnan, aged about 28 years, to issue a Writ of Habeas Corpus, to call for the records, in BCDFGISSSV No.13/2016, dated 11.2.2016, 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 "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 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.14 of 2016, on the file of the Thirukalukundram Police Station and the same was considered by the Detaining Authority, while passing the detention order. However, the adverse case, in Crime No.13 of 2016, on the file of the same 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 said 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 only the ground case registered in Crime No.14 of 2016, on the file of the Thirukalukundram Police Station. However, on a perusal of the detention order, it is clear that the adverse case, in Crime No.13 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 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 11.2.2016, 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 V)

//True Copy//

Sub Assistant Registrar

vvk

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,
Kancheepuram District,
Kancheepuram.
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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KGK(CO)
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