

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.06.2016

CORAM

THE HON'BLE MR.JUSTICE S.NAGAMUTHU
and
THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

H.C.P.No.111/2016

K.Chandrasekar

.. Petitioner

Vs

1. The Government of Tamil Nadu,
Represented by its Secretary
Home, Prohibition and Excise Department,
Fort St.George, Chennai-9.
2. The Commissioner of Police,
Chennai City, Vepery,
Chennai-600 907.

Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS, calling for the entire records pertaining to the impugned Detention Orders vide No. BCDFGISSV.No. 858 of 2015 dated 04.09.2015 passed by the second respondent and approved by the first respondent and quash the same as illegal and consequently direct the respondent to produce the detenu K.Chandrasekar aged about 23 years, son of Krishnamurthy now confined at Central Prison, Puzhal, before this Court and set him at liberty.

For Petitioner : Mr.P.Kumaravel

For Respondents : Mr.A.N.Thambi Durai,
Additional Public Prosecutor

ORDER

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

The petitioner/detenu is the son of Krishnamurthy, who has been lodged in Central Prison, Puzhal, Chennai, as per the orders of the 2nd respondent by his Proceedings in No.BCDFGISSSV No.858/2015, dated 04.09.2015 made under Section 2(f) of the

Tamil Nadu Act 14 of 1982 branding him as a ''GOONDA''. Challenging the same, the petitioner is before this Court with this Habeas Corpus Petition.

2. Though, many grounds have been raised in the petition, Mr.P.Kumaravel, 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, page Nos.137 and 455 in the booklet, furnished to the detenu, are illegible and could not be read at all. This illegible copies, would deprive the detenu of making effective representation, to the authorities, against the order of detention. Thus, the detention order is vitiated, on these grounds and the same is liable to be quashed.

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.A perusal of the booklet supplied to the detenu, would show that the copies of documents referred and relied upon and referred to by the Detaining Authority, in particular, page Nos.137 and 455, are illegible and are totally unreadable. This has resulted in the detenu being deprived of making an effective representation. Therefore, the detention order is vitiated and liable to be quashed on this ground alone.

7.It is a trite law that, personal liberty protected under Article 21, is so sacrosanct and so high in the scale of Constitutional values that, it is the obligation of the detaining authority to show that the impugned detention meticulously accords with the procedure established by law. Preventive detention is preventive and not punitive. When ordinary law of the land is sufficient to deal with, taking recourse to the preventive detention law is illegal.

8.In the light of the above facts and law, we have no hesitation in quashing the order of detention on the above mentioned ground.

9. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order in BCDFGISSV.No. 858 of 2015 dated 04.09.2015 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-III)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government,
Prohibition and Excise Department,
Secretariat, Chennai-9.
2. The Commissioner of Police,
Chennai City, Vepery,
Chennai-600 907.
3. The Superintendent of Police,
Central Prison, Puzhal, Chennai-66.
4. The Joint Secretary to Government,
Public (Law and Order),
Fort St. George, Chennai.
5. The Public Prosecutor,
High Court, Madras.

1 cc to Mr.P.Kumaravel, Advocate, sr.31324

H.C.P.No.111/2016

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