IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.12.2016

CORAM

THE HON'BLE MR.JUSTICE M.JAICHANDREN
and
THE HON'BLE MR.JUSTICE T.MATHIVANAN

H.C.P.No.1296 of 2016

Eswari ... Petitioner

Vs

1. The State of Tamil Nadu,
   rep by the Secretary to Government,
   Home, Prohibition and Excise Department,
   Secretariat, 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 detenu's detention order passed by the second respondent, dated 31.5.2016, in No.37/2016 BCDFGISSSV and to set aside the same and to produce the detenu Raji @ Otta Raji, aged about 36 years, son of Devaraj, now detained in the Central Prison, Vellore, before this Court and to set him at liberty.

For Petitioner : Mr.Mohammed Aasif

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

ORDER

[Order of the Court was made by T.MATHIVANAN, J.]

This Habeas Corpus Petition has been filed by the wife of the detenu, namely, Raji @ Otta Raji, aged about 36 years, son of Devaraj, to issue a Writ of Habeas Corpus, to call for the records, in BCDFGISSSV No.37/2016, dated 31.5.2016, 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

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"Goonda", in the Central Prison, Vellore, and to quash the same and to direct the Respondents to produce the body of the detenu and to 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 for the petitioner contends that there is variation between the English version and the Vernacular version of the remand order, dated 30.4.2016, relating to the ground case, in Crime No.343 of 2016, on the file of Siva Kanchi Police Station, which had been furnished to the detenu in page Nos.131 and 133 of the booklet. There was no proper translation of the remand order, dated 30.4.2016. Thus, the vernacular version, as found in page No.133, is differed from the English version, found in page No.131 of the booklet furnished to the detenu. This has prevented the detenu from making an effective representation against the impugned order of detention. Thus, the detention order is vitiated and the same is liable to be quashed.

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 30.4.2016, relating to Crime No.343 of 2016, on the file of Siva Kanchi Police Station. A perusal of the page Nos.131 and 133 of the booklet shows that there was no proper translation of the remand order, dated 30.4.2016. This has, apparently, caused substantial prejudice to the detenu and it has prevented him from making an effective representation and to take further steps. In such circumstances, we are inclined to set aside the detention order.

6. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order, dated 31.5.2016, 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(CCC)

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Sub Assistant Registrar

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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 Collector and
   District Magistrate,
   Kancheepuram District,
   Kancheepuram.

3. The Superintendent,
   Central Prison,
   Vellore.

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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