

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.12.2016

CORAM

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

H.C.P.No.1343 of 2016

S.Nancy Mary

...Petitioner

Vs

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

2.The Commissioner of Police,
Greater Chennai Police,
Chennai.

...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 passed by the second respondent, pertaining to the order made in BCDFGISSSV No.556/2016, dated 7.6.2016 and to quash the same and to direct the respondents to produce the detenue Shanthi, wife of Selvaraj, aged about 44 years, detained in the Special Prison for Women, Puzhal, Chennai, before this Court and to set her at liberty.

For Petitioner : Mr.S.Senthilvel
for Mr.P.Sundararajan

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

ORDER

[Order of the Court was made by M.JAICHANDREN,J.]

This Habeas Corpus Petition has been filed, by the daughter of the detenu, namely, Shanthi, aged about 44 years, wife of Selvaraj, praying that this Court may be pleased to issue a Writ of Habeas Corpus, to call for the records, in BCDFGISSSV No.556/2016, dated 7.6.2016, passed by the second respondent, detaining the detenu under Section 3(1) of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Cyber Law Offenders, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982), branding her as a "Goonda", in the Special Prison for Women, Puzhal, Chennai and to quash the same and to direct the Respondents to produce the body of the detenu and set her at liberty, forthwith.

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

3. Though, several grounds had been raised by the petitioner, while challenging the impugned order of detention, dated 7.6.2016, the learned counsel, appearing on behalf of the petitioner, had submitted that, in paragraph No.4 of the grounds of detention, it has been observed that in a case registered, in R-4 Soundarapandiyanar Angadi Police Station Crime No.384 of 2015, for the offences, under Sections 341, 392, 397, 294(b), 336, 427 and 506(ii) of the Indian Penal code, bail had been granted, by the Court of Principal Sessions Court, Chennai, in CrI.M.P.No.2805 of 2015. It had been further submitted that a copy of the remand extension order, relating to the said crime No.384 of 2015, which is said to be similar in nature to the ground case, in Crime No.1260 of 2016, on the file of S-13 Chromepet Police Station, had been furnished to the detenu, in page No.313 of the booklet furnished to him. However, the same is found illegible. Hence, the detenu had been prevented 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 submission 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. A perusal of the booklet supplied to the detenu, would show that the copy of the document relied upon and referred to by the detaining authority, in page No.313 of the booklet, which is the copy of the remand extension order, relating to R-4 Soundarapandiyanar Angadi Police Station Crime No.384 of 2015, is found illegible. As such, we find that the furnishing of the illegible copy of the same, would prejudice the detenu, in making an effective representation against the impugned order of detention, dated 7.6.2016. Therefore, we are inclined to set aside the impugned detention order.

6. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order, dated 7.6.2016, 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

//True Copy//

Sub Assistant Registrar

vvk

To

1. The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai-600 009
2. The Commissioner of Police,
Greater Chennai Police,
Chennai.
3. The Superintendent,
Special Prison for Women,
Puzhal, Chennai.
4. The Joint Secretary to Government public (Law & Order)
Fort Saint George,
Chennai-9.
5. The Public Prosecutor,
High Court, Madras.

PVS(CO)
RS(31/01/2017)

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