

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.06.2016

CORAM

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

H.C.P.No.229/2016

S.Manickam

...Petitioner

Vs

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

2.The Commissioner of Police,
O/o.The Commissioner of Police,
(Goondas Section)
Vepery, Chennai - 600 007.

...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 in Memo No.BCDFGISSV/619/15 passed by the 2nd respondent on 28.07.2015 set aside the same and direct the respondents to produce the Suresh, son of S.Manickam, aged 23 years, who is now detained in Central Prison, Puzhal, Chennai - 600 066, before this Court and set him at liberty.

For Petitioner : Ms.S.Vijayalakshmi

For Respondents : Mr.A.N.Thambidurai,
Additional Public Prosecutor

ORDER

[Order of the Court was made by V.BHARATHIDASAN,J]

This Habeas Corpus Petition is filed by the father of the detenu, namely, Suresh, aged 23 years, Son of Manikkam, to issue a Writ of Habeas Corpus, to call for the records, in No.619/2015 dated 28.07.2015, passed by the 2nd 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, Sexual Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14/1982),

the 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 and the learned Additional Public Prosecutor appearing for the State and we have also perused the records carefully.

3. Though many grounds have been raised in the petition, Ms.S.Vijayalakshmi, the learned counsel appearing for the petitioner, confines her argument only in respect of non-application of mind on the part of the detaining authority in passing the order of detention.

4. Learned counsel appearing for the petitioner submitted that page No.95 and certain other pages 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.

5. 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.

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 No.95 is illegible and is 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 dated 28.07.2015 passed by the 2nd 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 VI)

//True Copy//

Sub Assistant Registrar

To

1. The Secretary to Government
Home, Prohibition and Excise Department
Fort St. George, Chennai 600 009.
2. The Commissioner of Police,
Vepery, Chennai-7.
3. The Superintendent of Police,
Central Prison, Puzhal, Chennai-66.
4. The Joint Secretary to Government
Public (Law & Order),
Fort Saint George,
Chennai-9.

5. The Additional Public Prosecutor,
High Court, Madras.

+2cc to M/S.S.Vijayalakshmi, Advocate sr.30875

H.C.P.No.229/2016

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