

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.05.2016

CORAM

THE HON'BLE MR.JUSTICE G.CHOCKALINGAM
and
THE HON'BLE MR.JUSTICE M.V.MURALIDARAN

H.C.P.No.334 of 2016

Sasikala

... Petitioner

Vs.

State Rep. By

1. State of Tamil Nadu
Rep. by its Secretary of State
Prohibition and Excise Department
Fort St.George, Chennai -600 009.

2. The Commissioner of Police
Poonamallee High Road,
Vepery, Chennai -600 007.

... Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Habeas Corpus, calling upon the production of the records relating to the detention order dated 09.02.2016 made in detention order Memo No.90/BCDFGISSSV/2016, passed by the second respondent herein quash the same and direct the respondents to produce the body or person of the petitioner's father Manoharan, S/o.Krishnan, aged about 56 years, branded as Goonda and now confined in Central Prison, Puzhal, Chennai, before this Court and set him at liberty forthwith.

For Petitioner : Mr.C.Mohanraj

For Respondents : Mr.M.Maharaja
Additional Public Prosecutor

O R D E R

[Order of the Court was made by G.CHOCKALINGAM, J.]

Challenge is made to the order of detention passed by the second respondent vide Proceedings No.90/BCDFGISSSV/2016, dated 09.02.2016, whereby the father of the petitioner, by name, Manoharan, aged 56 years, son of Krishnan, was branded as a "Goonda" under 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 [Tamilnadu Act 14 of 1982].

2. Though many grounds have been raised in the petition, Mr.C.Mohan Raj, 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.106 to 108 and 125 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 the ground 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.106 to 108 and 125 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 dated 09.02.2016 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

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To

1. The Principal Secretary,
Home, Prohibition and Excise (XVI) Department,
Government of Tamil Nadu,
Fort St. George, Chennai -600 009
2. The Commissioner,
Poonamallee High Road,
Veppery, Greater Chennai.
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.

सत्यमेव जयते

H.C.P.No.334 of 2016

KSJ(CO)
CA(30/05/2016)

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