

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.06.2016

CORAM

THE HONOURABLE MR.JUSTICE S.NAGAMUTHU
and
THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

H.C.P.No.335 of 2016

J.Sundhar Raj

.. Petitioner

vs.

1.The Secretary to Government,
Home, Prohibition and
Excise Department,
Fort St. George,
Chennai - 600 009.

2.The District Collector &
The District Magistrate,
Vellore District.

..... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of habeas corpus to call for the records in No.C3/D.O.No.113/2015 dated 23.11.2015 on the file of the second respondent and quash the same as illegal and thereby direct the respondents to produce the detenu by name Santhosh son of Jeyapal, aged 28 years before this Court who is now detained in Central Prison, Vellore and set him at liberty.

For Petitioner .. Mr.M.Rajinikanth

For Respondent .. Mr.A.N.Thambidurai,
Additional Public Prosecutor

O R D E R

(The order of the Court was made by S.NAGAMUTHU.,J)

The petitioner, who is the brother of the detenu, Santhosh son of Jeyapal, aged 28 years, has come forward with this petition challenging the detention order passed by the second respondent, dated 23.11.2015 in No.C3/D.O.No.113/2015, against his brother branding him as a "Goonda" under 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].

2.Though, many grounds have been raised in the petition, Mr.M.RAjinikanth, 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.The learned counsel appearing for the petitioner submitted that, the page numbers 17,79 & 89 found in the booklet, furnished to the accused/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 page numbers 17,79 & 89 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 in No.C3/D.O.No.113/2015 dated 23.11.2015 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.

-s/d-
Assistant Registrar (CO)

True Copy

Sub-Assistant Registrar

To

1. The Secretary to Government,
Home, Prohibition and
Excise Department,
Fort St. George,
Chennai - 600 009.

2. The District Collector &
The District Magistrate,
Vellore District.

3. The Superintendent Central Prison, Vellore

4. The Joint Secretary to Government
Public Law and order Fort St. George
Chennai-09

5. The Public Prosecutor,
High Court, Madras.

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H.C.P.No.335 of 2016

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