

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.05.2016

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

H.C.P.No.339 of 2016

Kalpana .. Petitioner

vs.

1. State of Tamil Nadu
Rep. by its Secretary,
Home, Prohibition and Excise Department
Fort St.George, Chennai -600 009.
2. The Commissioner of Police,
The Commissioner Office,
Vepery, Chennai -600 007. ... Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Habeas Corpus, calling for the records relating to the detention order in Memo No.BCDFGISSSV No.66/2016, dated 06.02.2016, passed by the second respondent under the Tamil Nadu Act 14 of 1982 and set aside the same and direct the respondents to produce the petitioner's husband Ananthan, S/o.Bose, aged about 40 years, the detainee, now confined in Central Prison, Puzhal, Chennai, before this Court and set the petitioner's husband Ananthan, S/o.Bose aged about 40 years, the detainee herein, at liberty.

For Petitioner : Mr.R.Muthukumar

For Respondents : Mr.M.Maharaja
Addl. 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.BCDFGISSSV No.66/2016, dated 06.02.2016, whereby the husband of the petitioner, by name, Ananthan, aged 40 years, S/o.Bose, 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. R. Muthukumar, 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. 145, 146 and 162 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. 145, 146 and 162 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 06.02.2016 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(J)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary,
Home, Prohibition and Excise Department,
Government of Tamil Nadu,
Fort St. George, Chennai -600 009
2. The Commissioner,
Veppery, Greater Chennai.
3. The Public Prosecutor
High Court, Madras.
4. The Superintendent,
Central Prison, Puzhal, Chennai.
5. The Joint Secretary to Government
Public (Law & Order) Department
Fort St.George, Chennai.

H.C.P.No.339 of 2016

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