

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.11.2016

CORAM

THE HON'BLE MR.JUSTICE M.JAICHANDREN
and
THE HON'BLE MR.JUSTICE S.BASKARAN

H.C.P.No.501 of 2016

Chithiravel

... Petitioner

Vs

1. Commissioner of Police,
Vepery Chennai Police,
Chennai-600 007.
2. The Principal Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai-600 009.

... 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 of the first respondent herein in BCDFGISSSV No.99/2016, dated 11.2.2016 and to set aside the same and to direct the respondents to produce the detenu, namely Murugavel, son of Chithiravel, aged about 22 years, who is now confined in the Central Prison, Puzhal, Chennai, before this court and to set him at liberty.

For Petitioner : Mr.V.Balu

For Respondents : Mr.V.M.R.Rajentren
Additional Public Prosecutor

ORDER

[Order of the Court was made by S.BASKARAN, J.]

This Habeas Corpus Petition has been filed by the father of the detenu, namely, Murugavel, son of Chithiravel, aged about 22 years, to issue a Writ of Habeas Corpus, to call for the records, in BCDFGISSSV No.99/2016, dated 11.2.2016, passed by the first respondent, detaining the detenu, under Section 3(1) of 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), 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 to set him at liberty forthwith.

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

3. The learned counsel appearing for the petitioner points out that in the booklet furnished to the detenu, only the English version of the copy of the First Information Report, registered in Crime No.1888 of 2014, on the file of the S-10 Pallikaranai police station, was furnished and that vernacular version of the same was not furnished to him, which prevented the detenu from making an effective representation against the impugned order of detention. The learned counsel for the petitioner further points out that there is lack of application of mind on the part of the detaining authority while passing the detention order, dated 11.2.2016. It had been pointed out that the third adverse case, in Crime No.981 of 2015 and the fourth adverse case, in Crime No.1244 of 2015, on the file of S-10 Pallikaranai Police Station, were not at all considered by the detaining authority while passing the detention order, which shows the lack of application of mind by the authority concerned. Hence the learned counsel for the petitioner sought the relief, as prayed for in the petition.

4. The said submissions 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. On verification of the booklet furnished to the detenu, it is found that in page Nos.17 and 19, only the English version of the F.I.R. registered in Crime No.1888 of 2014, on the file of S-10 Pallikaranai Police station, was furnished to the detenu and no vernacular version of the same was furnished to him. Likewise, the claim of the learned counsel for the petitioner regarding non reference of third and fourth adverse cases by the detaining authority while passing the impugned detention order, dated 11.2.2016, has also been substantiated by the materials placed before this Court. In such circumstances, the plea of the learned counsel for the petitioner that the detenu was prevented from making an effective representation due to the non supply of the Tamil version of the F.I.R. in Crime No.1888 of 2014 and that there was total non application of mind on the part of the detaining authority, who failed to look into

the third and fourth adverse cases, while passing the order of detention, has to be accepted.

6. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order, dated 11.2.2016, passed by the first 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 V)

//True Copy//

Sub Assistant Registrar

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To

1. The Commissioner of Police,
Vepery Chennai Police,
Chennai-600 007.
2. The Principal Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai-600 009.
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.

SVI(CO)
CA(30/12/2016)

H.C.P.No.501 of 2016

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