

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.10.2016

CORAM

THE HONOURABLE MR.JUSTICE M.JAICHANDREN
and
THE HONOURABLE MR.JUSTICE S.BASKARAN

H.C.P.No.527 of 2016

Illaya Raja

...Petitioner

Vs.

1.Government of Tamil Nadu
represented by its Principal Secretary
Home, Prohibition
Fort St. George
Chennai-9.

2.The Commissioner of Police
Greater Chennai Police
Chennai-7.

..Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Habeas Corpus calling for the records in connection with the order of detention passed by the second respondent, in No.171/BCDEFGISSSV/2016, dated 22.2.2016, against the detenu, viz., Thiru. Mohan, son of Natarajan, aged about 50 years, who is confined at the Central Prison, Puzhal, Chennai, and to set aside the same and to direct the respondents to produce the detenu before this Court and to set him at liberty.

For Petitioner : M/s.S. Ehumalai
for Mr.S. Senthilvel

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 son of the detenu, namely, Mohan, son of Natarajan, aged about 50 years, praying that this Court may be pleased to issue a Writ of Habeas Corpus, to call for the records, in Memo No.171/BCDFGISSSV/2016, dated 22.2.2016, passed by the second 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, 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 and the learned Additional Public Prosecutor appearing on behalf of the State and we have also perused the records, carefully.

3. Though, various grounds had been raised in the affidavit filed in support of the petition, the learned counsel, appearing on behalf of the petitioner, had assailed the order of detention mainly on the ground that there are so many discrepancies between the English version and the Tamil version of the detention order. Though in the English version of the detention order, it is stated that, "Later, Tmt. Vijayalakshmi and Thiru. Mohan were surrendered before the Judicial Magistrate-1, Poonamallee on 17.2.2016, in the Tamil version of the detention order, the date of surrender has not been mentioned. Even the offences were not translated properly. There is also variation in mentioning the amounts and therefore, there is total non application of mind by the detaining authority, while passing the detention order. Therefore, the detention order is liable to be quashed.

4. The said submission made by the learned counsel appearing on behalf of the petitioner could not be refuted by the learned Additional Public Prosecutor appearing on behalf of the respondents.

5. A perusal of the English version as well as the Tamil version of the detention order shows so many discrepancies in dates, offences and the amounts, which show the total non application of mind on the part of the detaining authority, while passing the detention order. Therefore, we are of the view that the improper translated version of the detention order

in Tamil had prevented the detenu from making an effective representation against the impugned order of detention, dated 22.2.2016. Therefore, we are inclined to set aside the impugned detention order.

6. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order, dated 22.2.2016, 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

rnb

To

1. Government of Tamil Nadu
represented by its Principal Secretary
Home, Prohibition
Fort St. George
Chennai-9.
2. The Commissioner of Police
Greater Chennai Police
Chennai-7.
- 3 The Superintendent Central Prison,
Puzhal, Chennai (In duplicate for communication to Detenue)
- 4 The Joint Secretary to Government
Public (Law & Order) Fort Saint George, Chennai
5. The Public Prosecutor, High Court, Madras.

+1cc to Mr.S. Elumalai, Advocate, S.R.No.60923

pvs (CO)
md(19/01/2017)

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