

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.05.2016

CORAM

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

H.C.P.No.616 of 2016

V.AmbigaPetitioner/Sister in Law of
the detenue

vs.

1. The State of Tamil Nadu
Rep.by its Secretary
Department of Home, Prohibition and Excise,
Fort St.George, Chennai -600 009
- 2.The District Collector and
District Magistrate,
Thiruvallur District, Thiruvallur....Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Habeas Corpus, calling for the records pertaining to the impugned detention order vide No.BCDFGISSSV No.12/2016 dated 06.03.2016 passed by the second respondent herein and approved by the first respondent and quash the same as illegal and consequently direct the respondents to produce the detenu Tamizh, son of Padmanaban, aged 30 years, now confined at Central Prison, Puzhal, Chennai before this Court and set him at liberty.

For Petitioner : Mr.S.Sathiyan
For Respondents : Mr.M.Maharaja
Addl. Public Prosecutor

WEB COPY
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.12/2016 dated 06.03.2016, whereby the brother-in-law of the petitioner, by name, Tamizh, aged 30 years, son of Padmanaban, 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. S. Sathiyar, 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 No. 85 in the booklet furnished to the detenu is illegible and could not be read at all. This illegible copy 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 No. 85 is illegible and is 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 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(J)

True Copy

Sub-Assistant Registrar

kua
To

- 1.The Secretary
The State of Tamil Nadu
Department of Home, Prohibition and Excise,
Fort St.George, Chennai -600 009
- 2.The District Collector and
District Magistrate,
Thiruvallur District, Thiruvallur.
3. The Public Prosecutor
High Court, Madras.
4. The Superintendent,
Central Prison II, Puzhal,
Chennai.
5. The Joint Secretary, Central Prison,
Puzhal, Chennai

H.C.P.No.616 of 2016

ca(co)
aa06/06/2016

WEB COPY