

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.10.2016

CORAM

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

H.C.P.No.729 of 2016

Kamatchi .. Petitioner

Vs

1.The State of Tamil Nadu,
rep by its Secretary to the Government,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai-600 009.

2.The Commissioner of Police,
The Commissioner Office,
Vepery, Chennai-600 007.

.. 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 in connection with the order of detention passed by the second respondent in his proceedings in Memo No.354/BCDFGISSSV/2016, dated 26.3.2016, against the husband of the petitioner, Kicha @ Krishnamurthy @ Krishnan, son of Muthu, aged about 30 years, who is confined at Central Prison, Puzhal, Chennai and set aside the same and to direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner : Mr.S.Senthilvel

For Respondents : Mr.V.M.R.Rajentran,
Additional Public Prosecutor

ORDER

[Order of the Court was made by M.JAICHANDREN,J]

This Habeas Corpus Petition has been filed, by the wife of the detenu, namely, Kicha @ Krishnamurthy @ Krishnan, son of Muthu, aged about 30 years, praying that this Court may be pleased to

issue a Writ of Habeas Corpus, to call for the records, in BCDFGISSSV No.354/2016, dated 26.3.2016, 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 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, several grounds had been raised by the petitioner, while challenging the impugned order of detention, dated 26.3.2016, the learned counsel, appearing on behalf of the petitioner, had submitted that in paragraph No.4 of the detention order, the detaining authority has referred to a similar case in Crime No.384 of 2015 on the file of the R-4 Soundarpandiyanar Angadi Police station. The remand extension order of the said crime No.384 of 2015 has been furnished to the detenu, in page No.479 of the booklet. However, the remand extension order in respect of the Crime No.384 of 2015 furnished to the detenu is totally illegible. Hence, the detenu had been prevented from making an effective representation against the impugned order of detention. Thus, the detention order is vitiated and the same is liable to be quashed.

4. The said submission 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. A perusal of the booklet supplied to the detenu, would show that the copy of the document relied upon and referred to by the detaining authority, in page No.479 of the booklet, i.e., remand extension order in respect of Crime No.384 of 2015, is illegible. As such, we find that the furnishing of the illegible copy, would prejudice the detenu, in making an effective representation against the impugned order of detention, dated 26.3.2016. 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 26.3.2016, 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.

vvk

Sd/-

Assistant Registrar (CS VI)

/TRUE COPY/

Sub-Assistant Registrar

To

1. The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai-600 009
2. The Commissioner of Police,
The Commissioner Office,
Vepery, Chennai-600 007.
3. THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAI, CHENNAI.
4. THE JOINT SECRETARY TO GOVT.
PUBLIC[LAW & ORDER]
FORT St. George, Chennai.
5. The Public Prosecutor,
High Court, Madras.

सत्यमेव जयते

H.C.P.No.729 of 2016

KJ[CO]

MK:12/11/2016

WEB COPY