

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.05.2016

CORAM

THE HONOURABLE DR. JUSTICE G.CHOCKALINGAM
and
THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

H.C.P.No.730 of 2016

Kutty

... Petitioner

Vs.

1.The State of Tamil Nadu
rep by Secretary to Government
Prohibition & Excise Department
Fort St.George,
Chennai 600 009.

2.The Commissioner of Police
Office of the Commissioner of Police
(Goondas Section)
Vepery, Chennai 600 007.

... Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Habeas Corpus to call for the records relating to the detention order dated 30.09.2015 passed by the second respondent in No.1074/BDFGISSV/2015 and quash the same and direct the respondents herein to produce the petitioner's husband namely Ramesh @ Mattu Ramesh, S/o Chookalingam, aged about 45 years, No.19, Union Road, Nolambur, Chennai 600 095 who is presently under going detention in the Central Prison, Puzhal under Section 2(f) of the Tamilnadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamilnadu Act 14 of 1982) before this Court and set him at liberty forthwith.

For Petitioner : Mr.C.Prabakaran

For Respondents : Mr.M.Maharaja,
Additional 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 in No.1074/BDFGISSV/2015 dated 30.09.2015, whereby the detenu/the husband of the petitioner herein, namely Ramesh @ Mattu Ramesh, son of Chocklaingam, aged about 45 years, was ordered to be detained under the provisions of 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".

2.Though many grounds have been raised in the petition, Mr.C.Prabakaran, 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.126 in the booklet furnished to the detenu is 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 this 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.126 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.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

ga/vj2

To

1. The Secretary to Government
State of Tamil Nadu
Home, Prohibition & Excise Department
Fort St. George, Chennai 600 009.

2. The Commissioner of Police
Office of the Commissioner of Police
(Goondas Section)
Vepery, Chennai 600 007.

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.

H.C.P.No.730 of 2016

SKV(CO)
CA(15/06/2016)