

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.06.2016

CORAM

THE HON'BLE MR.JUSTICE S.NAGAMUTHU
and
THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

H.C.P.No.76/2016

C.Indira

.. Petitioner

Vs

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

2. The District Magistrate and the District
Collector, Thiruvallur District,
Thiruvallur.

.. 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 Detention Order passed in BCDFGISSSV No.42 of 2015 dated 20.12.2015 on the file of the 2nd respondent herein and set aside the same and direct the respondents to produce the petitioner i.e. the body of K.Chandran, son of Kandasamy, the detenu herein, now confined in Central Prison, Puzhal, Chennai before this Court and set him at liberty.

For Petitioner : Mr.M.Anandaraj

For Respondents : Mr.A.N.Thambi Durai,
Additional Public Prosecutor

ORDER

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

The petitioner is the wife of one K.Chandran, who has been detained by the 2nd respondent under the provisions of the Tamil Nadu Act 14 of 1982 branding him as a "Goonda" by an impugned Detention Order dated 20.12.2015. Challenging the same, the petitioner is before this Court with this Habeas Corpus Petition.

2. We have heard the learned Counsel for the petitioner and the learned Additional Public Prosecutor appearing for the respondents and we have also perused the records carefully.

3. Though several grounds have been raised in this petition, the learned Counsel for the petitioner would focus his argument on two grounds mainly. The first and foremost ground is that there was total non-application of mind on the part of the Detaining Authority. He would point out that in Crime No.822 of 2011, the detenu was prosecuted and the case ended in acquittal on 05.11.2015 in C.C.No.275 of 2014 on the file of the learned Judicial Magistrate, Tiruttani. But in the detention order, it has been mentioned as though the trial is pending. This, according to the learned Counsel for the petitioner, shows the non-application of mind on the part of the detaining authority in passing the impugned detention order.

4. We find some force in the said argument of the learned Counsel for the petitioner.

5. Secondly, the learned Counsel for the petitioner would submit that many pages in the booklet furnished to the petitioner are not readable. The learned Counsel for the petitioner would take us through the pages 19, 20 and few more pages where we find that the documents are illegible and they not readable. Thus, the right of the detenu to make effective representation has been deprived of. For these reasons, we are inclined to quash the impugned detention order.

6. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order in BCDFGISSSV No.42 of 2015 dated 20.12.2015 passed by the second respondent is quashed. The detenu, namely, Chandran, son of Kandasamy, is directed to be released forthwith, unless her presence is required in connection with any other case.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

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

2. The District Magistrate and the District Collector, Thiruvallur District, Thiruvallur.
3. The Additional Public Prosecutor, High Court, Madras.
4. The Superintendent, Central Prison, Puzhal, Chennai.
5. The Joint Secretary to Government, Public(Law & Order), Fort Saint George, Chennai - 9.

H.C.P.No.76/2016

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