



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.01.2016

CORAM:

THE HONOURABLE MR.JUSTICE P.R.SHIVAKUMAR

and

THE HONOURABLE MR.JUSTICE V.S.RAVI

H.C.P(MD)No.1457 of 2015

Kowsalya

.. Petitioner

Vs.

1.Govt.of Tamilnadu,
rep.by the Principal Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.

2.The District Collector and District Magistrate,
Tiruchirappalli District, Collectorate,
Tiruchirapalli.

3.The Inspector of Police,
Manachanallur,
Tiruchirapalli district.

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, to call for the entire records relating to the detention order dated 22.09.2015 passed by the second respondent made in Cr.M.P.No.29/2015 dated 22.09.2015 and quash the same and direct the respondents to produce the body of the detenu i.e. the petitioner's husband Prakash aged about 39 years S/o.Periyasamy now confined in Central prison, Trichy before this court and set him at liberty forthwith.

For Petitioner : Mr.R.Bagyaraj

For Respondents : Mr.A.Ramar

Additional Public Prosecutor

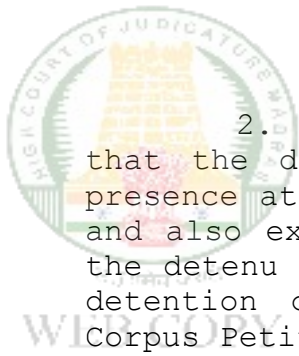
O R D E R

[Order of the Court was made by P.R.SHIVAKUMAR]

The petitioner is the wife of the detenu, namely Prakash S/o.Periyasamy. The detenu has been detained by the second respondent by his order in Cr.M.P.No.29/2015, dated 22.09.2015, holding him to be a "Goonda", as contemplated under Section 2(f) of Tamil Nadu Act 14 of 1982, taking note of the ground case in Crime No.347 of 2015 registered on the file of Samayapuram Police Station for offences punishable under Sections 387 and 506(ii) of the Indian Penal Code and the following two adverse cases:-

(i)Crime No.112 of 2014 registered on the file of Tiruchirapalli District, Boiler Plant Police Station for an offence punishable under Section 379 of the Indian Penal Code; and

(ii)Crime No.221 of 2014 registered on the file of Tiruchirapalli District, Kollidam Police Station for an offence punishable under Section 302 of the Indian Penal Code."



2. The Detaining Authority, expressing subjective satisfaction that the detenu conformed to the definition of "Goonda" and that his presence at large would be prejudicial to the maintenance of public order and also expressing subjective satisfaction that it was very likely that the detenu would come out on bail in the ground case, passed the impugned detention order. The said order is challenged in the present Habeas Corpus Petition.

3. Though a number of grounds have been raised assailing the order of detention, the learned counsel for the petitioner mainly relies on the contention that the document furnished at page No.100 of the booklet supplied to the detenu is illegible and hence there was denial of reasonable opportunity to the detenu to make an effective representation and to effectively challenge the order of detention at an early date. The learned counsel for the petitioner took us through the documents found at page No.100 and made the above said submission.

4. The learned Additional Public Prosecutor in reply to the above said submission, pointing out page No.100 in the booklet produced by the third respondent to this Court, submits that the document at page No.100 of the booklet is very clear and that hence the ground raised by the learned counsel for the petitioner should be rejected as untenable.

5. The booklet supplied to the detenu containing the signature of the Additional Superintendent of Central Jail is compared with the booklet produced by the Additional Public Prosecutor for our perusal. On such perusal, we are able to find that page No.97 contains the xerox copy of Arrest/Court Surrender Form in Crime No.347/15. The said document is continued at page No.98 also. Page Nos.99 and 100 are nothing but another copy of the document found at page Nos.97 and 98. The document found at page No.100 in the booklet produced by the learned Additional Public Prosecutor, is not found anywhere in the booklet supplied to the detenu. Likewise, many documents which were found in the booklet produced by the Additional Public Prosecutor are not found in the booklet supplied to the detenu and vice versa. Besides page No.100 in the booklet supplied to the detenu being illegible, the above said aspects will also show that there was something wrong with the detaining authority and the entire proceeding, because of the above said discrepancies, shall stand vitiated.

6. In the result, the Habeas Corpus Petition is allowed and this Court sets aside the order of detention dated 22.09.2014, made in Cr.M.P.No.29/2015, by the second respondent, the District Collector and District Magistrate, Tiruchirappalli District, Collectorate, Tiruchirappalli and directs the release of the detenu by name Prakash S/o.Periyasamy, aged about 39 years forthwith, if his continued custody is not authorised in specific cases or by any other detention order.

Sd/-

Assistant Registrar(AE)

/True copy/



To

- 1.The Principal Secretary to Government,
Govt.of Tamilnadu,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.
- 2.The District Collector and District Magistrate,
Tiruchirappalli District, Collectorate,
Tiruchirapalli.
- 3.The Joint Secretary to Government
Public(Law & Order), Fort Saint George, Chennai-9.
- 4.The Inspector of Police,
Manachanallur,
Tiruchirapalli district.
- 5.The Superintendent of Prison,
Trichy Central Prison, Trichy
(in duplicate for communication to detenu)
- 6.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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H.C.P (MD) No.1457 of 2015
11.01.2016