



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.05.2016

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CORAM:

**THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN
AND
THE HONOURABLE MR.JUSTICE B.GOKULDAS**

H.C.P.(MD)No.182 OF 2016

Ayesha Beevi

... Petitioner

vs.

1. The Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai-600 009.

2. The Commissioner of Police,
Tiruchirappalli City,
Tiruchirappalli.

... Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Habeas Corpus to call for the entire records connected with the detention order of the second respondent in his proceedings in C.No.06/Detention/C.P.O./T.C./2016, dated 08.02.2016, in detaining the detainee under the Tamilnadu Act 14 of 1982 as a Goonda and quash the same and direct the respondents to produce the detainee namely Chandru son of Ganesan, Male, aged about 29 years, who is detained in Central Prison, Tiruchirappalli, before this Court and set him at liberty.

For Petitioner : Mr.K.M.Karunakaran

For Respondents : Mr.C.Ramesh

Additional Public Prosecutor

O R D E R

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

The petitioner's son Chandru, aged about 29 years, has been
<https://hcservices.ecourts.gov.in/hcservices/>
detained as "Goonda", under Section 2(f) of the 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), as per the order of the second respondent, dated 08.02.2016. Challenging the same, she has come up with this Habeas Corpus Petition.

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2. The learned counsel for the petitioner would submit that the petitioner sent a representation to the first respondent on 09.02.2016 to revoke the detention order passed against the detenu. However, the same was rejected by the second respondent on 18.02.2016 and hence the impugned detention order is liable to be set aside on that ground alone. In support of his contention, he relied upon the order of this Court, dated 24.08.2015, made in H.C.P.(MD) No.531 of 2015, wherein this Court has held as follows:

"6. In our considered view, when the representation was made to the Government, it is for the Government to consider the same and it is not for the detaining authority. Here in this case, though the representation was made to the Government, the detaining authority, on his own, dismissed the representation, which, in our considered view, would not satisfy the legal requirements, more particularly, the procedure contemplated under Articles 21 and 22 of the Constitution of India. In such view of the matter, we are inclined to set aside the detention order."

3. As rightly contended by the learned counsel for the petitioner, in the present case also, the representation was sent to the Government, but the same was rejected by the detaining authority. Hence, the above cited order is squarely applicable to the facts of the present case. Therefore, we are inclined to set aside the impugned detention order.

4. In the result, the Habeas Corpus Petition is allowed and this Court sets aside the order of detention dated 08.02.2016, made in C.No.06/Detention/C.P.O./T.C./2016, by the second respondent and directs the release of the detenu by name Chandru son of Ganesan, Male, aged about 29 years forthwith, if his custody/detention is not authorised in specific cases or by any other order of detention.

Sd/-
Assistant Registrar

/True Copy/



To

1. The Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai-600 009.

2. The Commissioner of Police,
Tiruchirappalli City,
Tiruchirappalli.

3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

4. The Superintendent,
Central Prison,
Tiruchirappalli.

ARUL/KRK

TE/NGM-MP/SAR-III : 02/06/2016 : 3P/5C

H.C.P. (MD) No.182 OF 2016
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