



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.05.2016

CORAM :

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

and

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

Habeas Corpus Petition (MD) No.278 of 2016

Vasuki

... Petitioner

Vs.

1.The Secretary to Government,

State of Tamil Nadu,

Home, Prohibition and Excise Department,

Fort St., George, Chennai 600 009.

2.The District Collector and District Magistrate,

Office of the District Collector and District Magistrate,

Nagapattinam, Nagapattinam District.

3.The Superintendent of Prison,

Trichy Central Prison,

Trichy District.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Habeas Corpus, calling for the entire records connected with the detention order of the respondent No.2 in C.O.C. No.19/2016 dated 19.2.2016 and quash the same and direct the respondents to produce the body or person of the detenu by name Arunkumar son of Ravi aged 25 years now detained in Trichy Central Prison before this Honourable Court and set him at liberty.

For Petitioner : Mr.R.Alagumani

For Respondents : Mr.C.Ramesh,
Additional Public Prosecutor.

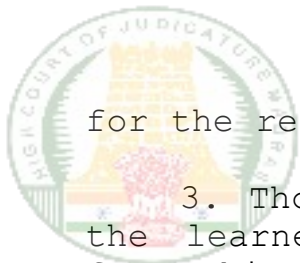
ORDER

(Order of the Court was made by **R.MAHADEVAN,J**)

The petitioner is the mother of the detenu, namely, Arunkumar, aged 25 years, son of Ravi, who has been detained under the Tamil Nadu Act 14 of 1982 by the order of the second respondent, in his proceedings in C.O.C.No.19/2016, dated 19.02.2016, branding him as a 'Goonda'. Challenging the same, the petitioner is before this Court with this Habeas Corpus Petition.

<https://hcservices.ecourts.gov.in/hcservices/>

2. We have heard the learned Counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing



for the respondents.

3. Though several grounds have been raised in this petition, the learned Counsel appearing for the petitioner would mainly focus his argument on the ground that the detenu did not commit any offence of extortion, however, the Detaining Authority while arriving at his subjective satisfaction to pass the order of detention, has failed to take into account the same and it vitiates the order of detention and thus, the detention order is liable to be set aside. This, according to the learned Counsel appearing for the petitioner is totally baseless and reflecting the total non-application of mind of the Detaining Authority. In support of his submissions, he placed reliance on the decision of the Honourable Supreme Court in **N.M.Krishnan @ Muthu Krishnan v. The Commissioner of Police, Greater Chennai and others** reported in **2000 (2) MWN (Cr.) 272**.

4. Despite several opportunities given, no counter affidavit is forthcoming on the side of the respondents. Also, the learned Additional Public Prosecutor is not in a position to dispute the above fact.

5. We have considered the above said submissions and perused the materials available on record.

6. It is seen that the Detaining Authority, while arriving at his subjective satisfaction, has stated as follows:

".... I am satisfied that Thiru.Arunkumar, Male, aged 25/2016, S/o.Ravi, is acted in a manner prejudicial to the maintenance of Public Order and Public Peace, as such he is a 'Goonda' as contemplated under section 2(f) of the Tamil Nadu Act 14 of 1982 by committing the above described crime including extortion and he has created a feeling of insecurity in the minds of the people and thereby acted in a manner prejudicial to the maintenance of Public Order and Public Peace. He is also a Rowdy Sheeter vide H.S.No.387/2014, dated 23-01-2015 in Sirkazhi Police Station."

7. On perusal of the entire materials available on record, we find that the Detaining Authority has failed to apply its mind while arriving at the subjective satisfaction to pass the impugned order of detention and thus, it vitiates the same.

8. In the result, the impugned detention order passed by the second respondent, detaining the detenu, namely, Arunkumar, aged 25 years, made in C.O.C.No.19/2016, dated 19.02.2016, is quashed and the Habeas Corpus Petition is allowed.



The above named detenu is ordered to be set at liberty forthwith, unless his custody is required in connection with any other case.

Sd/
Assistant Registrar

WEB COPY

/True copy/

Sub Assistant Registrar

To

- 1.The Secretary to Government,
State of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St., George, Chennai 600 009.
- 2.The District Collector and District Magistrate,
Office of the District Collector and District Magistrate,
Nagapattinam, Nagapattinam District.
- 3.The Superintendent of Prison,
Trichy Central Prison, Trichy District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.
- 5.The Joint Secretary to Government,
Public (Law & Order), For St., George, Chennai-9.

SSDR/KMB/SAR I/02.06.2016/3P/6C

Habeas Corpus Petition (MD) No.278 of 2016
23.05.2016