



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.458 of 2016

Abudagir alias Chottai Abudagir

... Petitioner

Vs.

1. State of Tamil Nadu,
The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St., George, Chennai 9.

2. The Commissioner of Police,
O/o.The Commissioner of Police,
Tiruchirappalli City,
Tiruchirappalli.

3. The Superintendent,
Central Prison,
Tiruchirappalli.

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Habeas Corpus, call for the entire records in detention order passed in C.No. 43/ Detention / C.P.O/ T.C / 2015 dated 11.12.2015 on the file of the 2nd Respondent herein and set aside the same as illegal and direct the Respondents to produce the petitioner namely Abudagir alias Chottai Abudagir S/o. Syed Mohammed Male aged 39 years who is detained in Central Prison Tiruchirappalli before this Honourable Court.

For Petitioner

: Mr.K.A.S.Prabhu

For Respondents

: Mr.C.Ramesh,
Additional Public Prosecutor.

ORDER

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

<https://hcservices.echips.gov.in/hcservices/>
Abudagir, son of Syed Mohammed, aged 39 years, who has been detained under the Tamil Nadu Act 14 of 1982 by the order of the



second respondent, in his proceedings in C.No.43/Detention/C.P.O./T.C/2015, dated 11.12.2015, branding him as a 'Goonda'. Challenging the same, the petitioner is before this Court with this Habeas Corpus Petition.

2. Though this matter stood adjourned to 13.06.2016, it has been listed before this Court as per the Special Criminal Division Bench sitting arrangements during Vacation Holidays and by consent of either side, this matter is taken up for disposal.

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

4. 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 despite several representations have been made by the detenu, the relevant copies of the materials have not been furnished to the detenu, which is fatal to the subjective satisfaction arrived at by the Detaining Authority that there was every real possibility for the detenu to come out on bail is not based on any material 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 contentions, he relied on the judgment of this Court in S.Sarsu v. The Government of Tamil Nadu and another [H.C.P.No.3715 of 2014, decided on 25.03.2015].

5. Despite time granted, no counter affidavit is forthcoming on the side of the respondents so far. Also, the learned Additional Public Prosecutor is not in a position to dispute the above fact.

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

7. This Court, in Jarinabegam v. State of Tamil Nadu by Secretary to Government, Prohibition and Excise Department, Chennai and another (2007-1-MLJ-Cr1.18), relying on the decision of the Honourable Supreme Court in M.Ahamed Kutty v. Union of India and another reported in 1990-2-SCC-1, held that non-supply of a copy of the bail application to the detenu has the effect of vitiating the order of detention.

8. In the light of the above dictum laid down by the Honourable Supreme Court, we are of the considered view that non-supply of relevant documents sought by the detenu, vitiates the order of detention as the detenu has lost his valuable right to make an effective representation to the authorities concerned and therefore, the detention order is liable to be set aside.



9. In the result, the impugned detention order passed by the second respondent, detaining the detenu, namely, Abudagir alias Chottai Abudagir, son of Syed Mohammed, aged 39 years, made in C.No.43/Detention/C.P.O./T.C/2015, dated 11.12.2015, 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 (Records)

/True Copy/

Sub Assistant Registrar

To

1. The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St., George, Chennai 9.
2. The Commissioner of Police,
O/o.The Commissioner of Police,
Tiruchirappalli City,
Tiruchirappalli.
3. The Superintendent,
Central Prison, Tiruchirappalli.
4. The Joint Secretary to Government,
Public (Law and Order),
Fort St. George, Chennai - 9
5. The Director General of Police, Chennai - 4
6. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

Sms/rsb

JM/KBM/SAR-III/02.06.2016/3P-7C

Habeas Corpus Petition (MD) No.458 of 2016
23.05.2016