



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.12.2016

CORAM:

WEB COPY

**THE HONOURABLE MR.JUSTICE R.SUBBIAH
AND
THE HONOURABLE MRS.JUSTICE J.NISHA BANU**

H.C.P.(MD)No.632 of 2016

S.Prema : Petitioner

Vs.

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

2.The District Collector and District Magistrate,
O/o. The District Collector and
District Magistrate,
Thanjavur District,
Thanjavur.

3.The Superintendent,
Central Prison,
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 in detention order passed in P.D.No.19/2016, dated 15.05.2016, on the file of the second respondent herein and set aside the same as illegal and direct the respondents to produce the body or person of the petitioner's son namely Manickavasagam, S/o.Sitrarasu, Male, aged about 28 years, who is detained in Central Prison, Tiruchirappalli before this Court and set him at liberty.

For Petitioner : Mr.K.A.S.Prabhu

For Respondents : Mr.C.Mayilvahana Rajendran,
Additional Public Prosecutor

**ORDER**

[Order of the Court was made by **R.SUBBIAH, J**]

The petitioner is the mother of the detenu-Manickavasagam, S/o.Sitrarasu, aged about 28 years. The detenu has been detained by the second respondent by his order in P.D.No.19/2016, dated 15.05.2016, holding him to be a "Goonda", as contemplated under Section 2(f) of Tamil Nadu Act 14 of 1982.

2. Though a number of grounds have been raised assailing the order of detention, the learned counsel for the petitioner mainly relies on the following contention:-

There was denial of reasonable opportunity to challenge the order of detention in an effective manner by the non-supply of a copy of the remand order as well as the extension of remand order by the learned Judicial Magistrate, Tiruthuraipoondi, though he made a representation to the Detaining Authority to furnish the same. Failure to supply a copy of the same even after a representation was made in writing seeking supply of the same amounts to denial of reasonable opportunity vitiating the order of detention itself.

3. The submissions made by the learned Additional Public Prosecutor in reply to the above said contention raised by the learned counsel for the petitioner are also heard.

4. In our considered opinion, the Detaining Authority, while relying upon the remand order as well as the extension of remand order, for clamping the order of detention as against the detenu, ought to have furnished a copy of the same. The failure to do so, in spite of making such representation, amounts to denial of reasonable opportunity to make an effective challenge to the order of detention. On that score alone, the order of detention is liable to be set aside.

5. In the result, this Habeas Corpus Petition is allowed and the impugned Detention Order, passed by the second respondent, in his proceedings in P.D.No.19/2016, dated 15.05.2016, is quashed. The detenu, namely Manickavasagam, S/o.Sitrarasu, aged about 28 years, is ordered to be set at liberty forthwith, if he is not required for detention in connection with any other case.

Sd/-

Assistant Registrar (CO)

/True Copy/



SML

To

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

2.The District Collector and District Magistrate,
O/o. The District Collector and
District Magistrate,
Thanjavur District,
Thanjavur.

3.The Superintendent,
Central Prison,
Tiruchirappalli.
(in duplicate for Communication to Detenue)

4 The Joint Secretary to Government,
Public (Law and Order)
Fort.St. Geroge, Chennai-9

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

+1CC to Mr.K.A.S.Prabhu, Advocate Sr.No.81476

GJM/SKS/RR/2.1.17-3p-8C

Order made in
H.C.P. (MD) No.632 of 2016
Dated: 15.12.2016