



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.09.2016

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE S.NAGAMUTHU
AND
THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN
H.C.P. (MD) No. 771 of 2016

Bhuvaneshwari : Petitioner

Vs.

- 1.The State of TamilNadu,
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. District Collector and District Magistrate,
Thanjavur District,
Thanjavur. : Respondents

Prayer: Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Habeas Corpus, to call for the records relating to the impugned order of detention made in P. D No. 12/2016 dated 27.04.2016 on the file of the District Collector and District Magistrate, Thanjavur District, Thanjavur, the 2nd Respondent herein branding the detenu by name Prabhu, aged about 31 years S/o. Natarajan as BOOT LEGGER, who is now confined in Central Prison, Tiruchirappalli and quash the impugned order of detention and set him at liberty by producing him before this Honourable Court.

For Petitioner : Mr.A.Thiruvadi Kumar
For Respondents : Mr.T.Mohan,
Additional Public Prosecutor

ORDER

(Order of the Court was made by **S.NAGAMUTHU, J.**)

The petitioner is the wife of the detenu viz., Mr.N.Prabhu, S/o.Natarajan, aged about 31 years. The detenu has been detained in Central Prison, Tiruchirappalli, as per the order of the second respondent, dated 27.04.2016, under Section 2(b) of the Tamilnadu Act 14 of 1982, branding him as "Boot- Legger". Challenging the same, she has come up with this Habeas Corpus Petition.

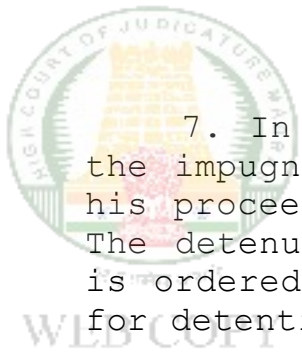
2. We have heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondents. We have also perused the records carefully.

3. Though several grounds have been raised in the Habeas Corpus Petition, the learned counsel for the petitioner would mainly focus his argument on the ground that Copies of a number of documents included in the booklet supplied to the detenu are illegible and the same deprived the detenu of his right to make an effective representation with necessary details against the order of detention. The learned counsel would submit that the representation made by the petitioner was not considered on time. The learned counsel would further submit that the case particulars sought for by the detenu have not been supplied at the earliest. Based on the same, the learned counsel would plead for setting aside the detention order.

4. The learned Additional Public Prosecutor would, however, oppose this Habeas Corpus Petition. He would submit that there is no violation of the fundamental rights guaranteed under Articles 21 and 22 of the Constitution of India.

5. As pointed out by the learned counsel for the petitioner, the copies of the documents found at Page Nos.1, 37, 38 and 39 of the booklet are illegible and in particular, a copy of the F.I.R in a similar case found at page Nos.38 and 39 are illegible, as the entire portion of the document has been blackened and the contents cannot be read. Hence, as rightly contended by the learned counsel for the petitioner, by the supply of such illegible copies, the detenu was denied of reasonable opportunity of making an effective representation against the order of detention at the earliest point of time.

6. It is an admitted fact that the detenu has signed the documents only in Tamil contending that he knows only Tamil. Admittedly he sent a representation dated 13.06.2016 for the supply of translated copies of the above said documents. In paragraph No.11 of the counter affidavit dealing with the above said contention, it has been stated that all legible copies were supplied to the detenu in the form of booklet. There is nothing to show that after representation, legible copies were supplied. As rightly contended by the learned counsel for the petitioner, the supply of illegible copies of the documents referred to above and the failure to supply of other documents in respect of bail order granted to one Mani @ Subramanian referred to in the representation dated 13.06.2016 would amount to denial of reasonable opportunity to the detenu to make an effective representation for revocation of the order of detention at the earliest point of time. On both the grounds, the order of detention is liable to be set aside.



7. 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. 12/2016 dated 27.04.2016, is quashed. The detenu, namely, N.Prabhu, S/o.Natarajan, aged about 31 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(CS-II)

/TRUE COPY/

Sub Assistant Registrar

To

- 1.The Secretary to Government,
State of TamilNadu,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai-9.
- 2.The District Collector and District Magistrate,
O/o. District Collector and District Magistrate,
Thanjavur District,
Thanjavur.
- 3.The Superintendent, Central Prison, Tiruchirappalli.
- 4.The Joint Secretary to Government, Public (Law & Order)
Fort.Sanit George, Chennai -9.
- 5.The Director General of Police, Chennai.
- 6.The Superintendent of Police, Thanjavur District.
- 7.The Inspector of Police, Prohibition Enforcement wing
Kumbakonam, Thanjavur District.
- 8.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to M/S.A.THIRUVADIKUMAR,ADVOCATE, SR NO:53795

vs

JA-SS-3-18.10.2016/3P:10C

Order made in
H.C.P.(MD) No.771 of 2016
Dated: 20.09.2016