

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 25.05.2017

Coram:

The Honourable Mr. Justice M.M.SUNDRESH
and

The Honourable Mr. Justice R.MAHADEVAN

Habeas Corpus Petition No.102 of 2017

Chinaraj

... Petitioner

Vs.

1.The State of Tamil Nadu,
Rep by its Principal Secretary to Government, Home,
Prohibition and Excise Department,
Secretariat,
Chennai 600 009.

2.The Commissioner of Police,
Greater Chennai, Vepery,
Chennai - 600 007.

... Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Habeas Corpus, calling for the records relating to the detention order passed by the second respondent dated 04.11.2016 in Memo No.1145/BCDFGISSSV/2016 against the petitioner's son Yogeswaran @ Rajesh, male, S/o Chinraj, aged about 27 years, who is now confined at Central prison, Puzhal, Chennai and set aside the same and direct the respondents to produce him before this Court and set him at liberty.

For Petitioner : Mr.K.Ravichandran

For Respondents : Mr.E.Raja,
Additional Public Prosecutor

O R D E R

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

The petitioner, who is the father of the detenu Yogeswaran @ Rajesh, male, aged about 27 years, has come forward with this Writ of Habeas Corpus Petition seeking to quash the detention order in Memo No.BCDFGISSSV/1145/2016 passed by the second

respondent, dated 04.11.2016, against his son branding him as a "Goonda" under 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].

2.Learned counsel appearing for the petitioner submitted that, the copies of the documents on the file of T-7 Tank Factory Police Station, furnished to the detenu, particularly in reference to page nos.69, 71 and 72 were illegible and could not be read at all. These illegible copies, would deprive the detenu of making effective representation, to the authorities, against the order of detention. Thus, the detention order is vitiated. On this ground the impugned detention order is liable to be quashed.

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

4.A perusal of the booklet supplied to the detenu, would show that the copy of documents referred and relied upon and referred to by the Detaining Authority, the copies of the documents on the file of T-7 Tank Factory Police Station in pages 69, 71 & 72 are totally unreadable. The statement made by the counsel of the petitioner appears to be true, as we find it difficult to read the furnished documents. This has resulted the detenu being deprived of making an effective representation. Therefore, the detention order is vitiated and liable to be quashed on this ground alone.

5.It is a trite law that, personal liberty protected under Article 21, is so sacrosanct and so high in the scale of Constitutional values that, it is the obligation of the detaining authority to show that the impugned detention meticulously accords with the procedure established by law. Preventive detention is preventive and not punitive. When ordinary law of the land is sufficient to deal with, taking recourse to the preventive detention law is illegal.

6.In the light of the above facts and law, we have no hesitation in quashing the order of detention on the above mentioned ground.

7. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order in No.BCDFGISSSV/1145/2016 dated 04.11.2016 passed by the second respondent is set aside. The detenu is directed to be released forthwith unless his presence is required in connection with any other case.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

cla/sts

To

- 1.The Principal Secretary to Government, Home,
Prohibition and Excise Department,
Secretariat,
Chennai 600 009.
- 2.The Commissioner of Police,
Greater Chennai,
Vepery,
Chennai 600 007.
- 3.The Superintendent,
Central Prison, Puzhal,
Chennai.
- 4.The Joint Secretary to Government,
Public(Law & Order),
Fort Saint George, Chennai - 9.
- 5.The Public Prosecutor,
High Court, Madras.

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H.C.P.No.102 of 2017

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