

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.01.2017

CORAM

THE HON'BLE MR.JUSTICE M.JAICHANDREN
and
THE HON'BLE MR.JUSTICE T.MATHIVANAN

H.C.P.No.1251 of 2016

Mary Velankanni

.. Petitioner

Vs

1.The State of Tamil Nadu
represented by Secretary to Govt.
Prohibition and Excise Department
Fort St. George, Chennai – 600 009

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

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS, calling for the records in connection with the order of detention passed by the second respondent dated 23.02.2016 in Detention Order No.183 of 2016 against the petitioner's son, namely Vijay @ Oili Vijay, aged 24 years, who is confined at Central Prison, Puzhal, Chennai and set aside the same and direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner : Mr.M.Madhan Kumar

For Respondents : Mr.V.M.R.Rajentran,
Additional Public Prosecutor (Crl.side)

ORDER

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

This Habeas Corpus Petition has been filed by the mother of the detenu, namely, Vijay @ Oili Vijay, aged 24 years, S/o.Govindan, to issue a Writ of Habeas Corpus, to call for the records, in 183/BCDFGISSSV/2016, dated 23.02.2016, passed by the second respondent, detaining the detenu, under Section 3(1) of 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), branding him as a “Goonda”, in the Central Prison, Puzhal, and to quash the same and to direct the Respondents to produce the body of the detenu and to set him at liberty forthwith.

2. We have heard the learned counsel appearing on behalf of the petitioner, as well as the learned Additional Public Prosecutor appearing for the State and we have also perused the records, carefully.

3. Though several grounds have been raised in this Habeas Corpus Petition, the learned counsel appearing on behalf of the petitioner, had pointed out that in the impugned Detention Order, dated 23.02.2016, the detaining authority had stated that the detenu, namely, Vijay @ Olli Vijay, is a goonda and that he has

come to adverse notice in four cases mentioned therein. He had further stated that the detaining authority has stated that in the first adverse case, on the file of the J9, Thuraipakkam Police Station, in Cr.No.1699 of 2013, the case had been registered and it is pending trial before the Court of Judicial Magistrate, Alandur, in S.C.No.24 of 2015. The learned counsel for the petitioner had further contended that, as the said case had been charged under Sections 341 and 302 r/w.34 IPC, it cannot be pending trial before the Court of Judicial Magistrate, Alandur, as it is a Sessions case. This wrong information furnished by the detaining authority has misled the detenu and therefore, he has not been in a position to make an effective representation against the impugned detention order passed by the detaining authority, on 23.02.2016, and it amounts to non-application of mind on the part of the detaining authority, while passing the Detention Order, dated 23.02.2016.

4. The said submissions made by the learned counsel appearing on behalf of the petitioner had not been refuted by the learned Additional Public Prosecutor appearing on behalf of the respondents.

5. On a perusal of the impugned detention order we find that it had been stated by the detaining authority that in the first adverse case, on the file of the J9, Thuraipakkam Police Station, in Cr.No.1699 of 2013, the case had been registered and it is pending trial before the Court of Judicial Magistrate, Alandur, in

S.C.No.24 of 2015. As rightly contended by the learned counsel appearing for the petitioner, as the said case had been charged under Sections 341 and 302 r/w.34 IPC, it cannot be pending trial before the Court of Judicial Magistrate, Alandur. As such we are of the view that the furnishing of wrong information would prejudice the detenu in making an effective representation against the impugned order of detention, dated 23.02.2016. Therefore, we are inclined to set aside the impugned detention order.

6.Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order, dated 23.02.2016, 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.

[M.J.,J.] [T.M.,J.]
25.01.2017

gpa

To

1.The Secretary to Government,
The State of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St. George, Chennai-600 009.

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

3.The Public Prosecutor,
High Court, Madras.

**M.JAICHANDREN,J.
AND
T.MATHIVANAN, J.**

gpa

H.C.P.No. 1251 of 2016

25.01.2017

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