

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.01.2017

CORAM

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

H.C.P.No.1564 of 2016

Santhanasamy .. Petitioner
Vs

- 1.The State of Tamil Nadu,
rep by its Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George, Secretariat,
Chennai-600 009.
- 2.The District Collector and
District Magistrate of Vellore District,
Vellore. .. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS, to call for the records in connection with the order of detention passed by the second respondent, dated 19.7.2016, in his office Ref.C3.D.O.No.40/2016, against the petitioner's son, by name Raja @ Chamber Raja, son of Santhanasamy, aged about 32 years, now confined in the Central Prison, Vellore and to set aside the same and to direct the respondents to produce the said detenu before this court and to set him at liberty.

For Petitioner : Mr.S.Senthilvel
for Mr.E.Kannadasan

For Respondents : Mr.V.M.R.Rajentran,
Additional Public Prosecutor

ORDER

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

This Habeas Corpus Petition has been filed, by the father of the detenu, namely, Raja @ Chamber Raja, aged about 32 years, son of Santhanasamy, praying that this Court may be pleased to issue a Writ of Habeas Corpus, to call for the records, in C3/D.O.No.40/2016, dated 19.7.2016, passed by the second respondent, detaining the detenu under Section 3(1) of the Tamil Nadu Prevention of Dangerous Activities of

Bootleggers, Cyber Law Offenders, 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, Vellore 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 and the learned Additional Public Prosecutor appearing on behalf of the State and we have also perused the records, carefully.

3. Though, several grounds had been raised by the petitioner, while challenging the impugned order of detention, dated 19.7.2016, the learned counsel, appearing on behalf of the petitioner, had pointed out that the vernacular version of the grounds of detention furnished to the detenu, relating to the facts of the ground case, is improper in nature. The statement made by the detaining authority, in the English version of the grounds of detention, as stated in paragraph No.5 of the grounds of detention, is different from the version given in the translated form. It had been further pointed out that page Nos.5 and 5A of the booklet furnished to the detenu, relating to the observation mahazar, in respect of the first adverse case, is illegible in nature. Hence, the detenu had not been in a position to make an effective representation against the impugned order of detention. Thus, the detention order is vitiated and the same is liable to be quashed.

4. The said submission 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. A perusal of the grounds of detention would show that the vernacular version of the grounds of detention furnished to the detenu, relating to the facts of the ground case, is improper in nature. In paragraph No.5 of the English version of the grounds of detention, the statement made by the detaining authority is different from the vernacular version furnished to the detenu. It clearly shows the non application of mind on the part of the detaining authority in passing the order of detention. It is further noted that page Nos.5 and 5A of the booklet furnished to the detenu, relating to the observation mahazar, in respect of the first adverse case, is found illegible. Thus, the furnishing of illegible copy of the same has caused prejudice to the detenu, in making an effective representation against the impugned order of detention, dated 19.7.2016. 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 19.7.2016, 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/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

vvk

To

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George,
Chennai-600 009
- 2.The District Collector and
District Magistrate of Vellore District,
Vellore.
- 3.The Superintendent, Central Prison, Vellore
- 4.The Joint Secretary to Government, Public(Law & Order)
Fort st. George, chennai-9.
- 5.The Public Prosecutor,
High Court, Madras.

H.C.P.No.1564 of 2016

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