

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 11.05.2017

CORAM

THE HONOURABLE MR. JUSTICE M.V.MURALIDARAN
and
THE HONOURABLE MR.JUSTICE S.BASKARAN

H.C.P No.2341 of 2016

C.Ramamurthy

.. Petitioner/(son)

/versus/

1. Government of Tamil Nadu rep.by its
Secretary, Home, Prohibition and Excise
(XVI) Department,
Fort St.George, Chennai 600 009.

2. The Commissioner of Police,
Coimbatore City.

.. Respondents

Habeas Corpus Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus to call for the records in detention order in C.No.46/G/IS/2016, dated 13.10.2016 on the file of the 2nd respondent and quash the same and direct the respondents herein to produce the body of the petitioner's mother C.Ochamma, aged 46 years, wife of Chokkan @ Vendy, now confined in Special Prison for Women, Coimbatore before this Court and set her at liberty.

For Petitioner : Mr.R.Subhadra Devi

For respondents : Mr.V.M.R. Rajentren,
Addl. Public Prosecutor

ORDER

(Order of the Court was made by M.V.MURALIDARAN,J.,)

The petitioner, who is the son of the detenu C.Ochamma, aged 46 years, wife of Chokkan @ Vendy, has come up with this habeas corpus petition, challenging the detention order passed against the detenu C.Ochamma, wife of Chokkan @ Vendy, by the second respondent, vide proceedings C.No.46/ G/IS/2016, dated 13.10.2016.

2. We have heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor

appearing for the State and we have also perused the records carefully.

3. Though several grounds were raised in the petition, the learned counsel appearing for the petitioner would mainly focus on the ground that even though the Detaining Authority has stated that in the ground case the bail application in crime No.146 of 2016 filed by the detenu is pending, he has placed reliance on a similar case, wherein bail was granted to an accused in Crl.M.P.No.666/2016 dated 29.08.2016, but did not furnish the details of the said similar case and even the said similar case is not in respect of the co-accused of the detenu in the ground case, but he has arrived at the subjective satisfaction that there is a real possibility for the detenu to come out on bail and as such the detention order is vitiated.

4. On the said submission, this Court heard the submission of the learned Additional Public Prosecutor also.

5. We have considered the above submissions. Admittedly, the Detaining Authority placed reliance on a similar case in Crl.M.P.No.666 of 2016 wherein bail was granted to the accused on 29.08.2016, but he did not furnish the details of the said similar case and even the said similar case is not in respect of the co-accused of the detenu in the ground case. Further, the Detaining Authority has stated that in the ground case, the bail petition of the detenu in Crl.M.P.No.21847 of 2016 is pending. As such, we are of the considered view that the Detaining Authority has passed the order in total non-application of mind and in the absence of any cogent materials available on record, has arrived at the subjective satisfaction to the effect that if the detenu comes out on bail, she would indulge in such further activities, which would be prejudicial to the maintenance of the public order. Therefore, we have no hesitation to hold that the impugned detention order passed by the second respondent is totally non-application of mind and in the absence of cogent materials available on record and in the most mechanical fashion.

6. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order, dated 13.10.2016 passed by the second respondent is set aside. The detenu is directed to be released forthwith unless her presence is required in connection with any other case.

Sd/-

Assistant Registrar(CS V)

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Sub Assistant Registrar

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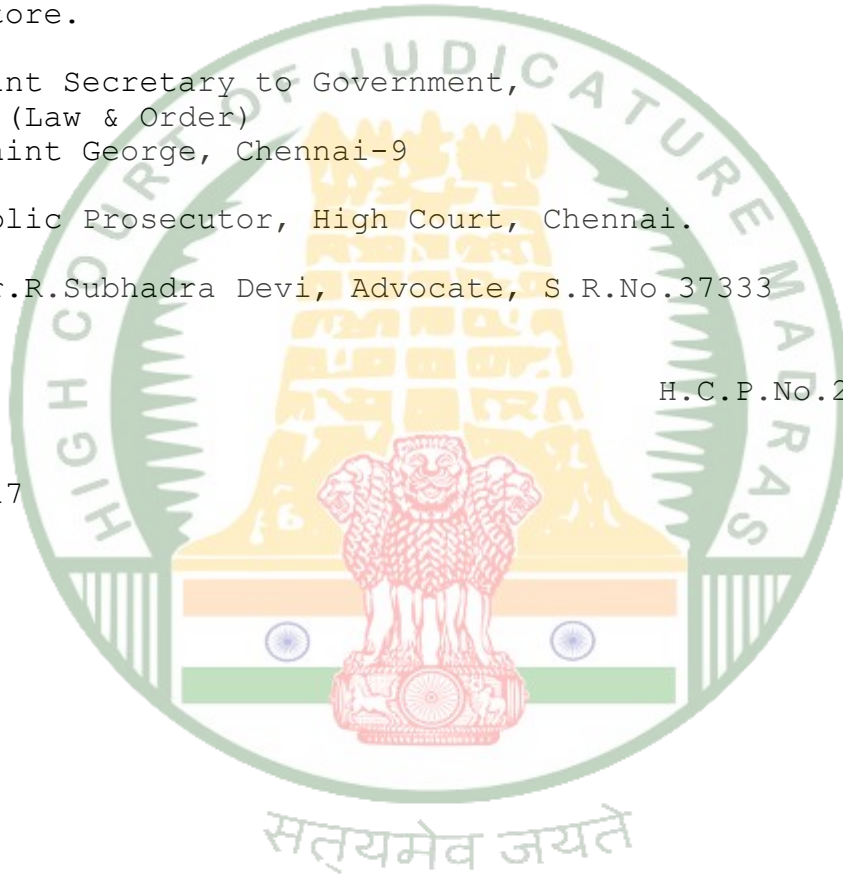
To

1. Government of Tamil Nadu rep.by its
Secretary, Home, Prohibition and Excise
(XVI) Department, Fort St.George, Chennai 600 009.
2. The Commissioner of Police, Coimbatore City.
3. The Superintendent Special Prison for Women,
Coimbatore.
4. The Joint Secretary to Government,
Public (Law & Order)
Fort Saint George, Chennai-9
5. The Public Prosecutor, High Court, Chennai.

+1cc to Mr.R.Subhadra Devi, Advocate, S.R.No.37333

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VGII(CO)
CS/28/06/17



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