



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 02.01.2017
CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH
and
THE HONOURABLE MRS.JUSTICE NISHA BANU

H.C.P(MD)No.1048 of 2016

Karuppaye : Petitioner
Vs.

- 1.The Secretary to Government,
State of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort.St.George, Secretariat,
Chennai - 600 009.
- 2.The District Collector and District Magistrate,
Office of the District Collector and District Magistrate,
Tiruchirappalli District, Tiruchirappalli.
- 3.The Superintendent of Prison,
Special Prison for Women,
Tiruchirappalli District. : Respondents

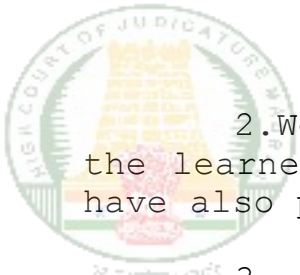
PRAYER: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus, to call for the entire records, pertaining to the impugned detention order passed by the second respondent made in his proceedings in Cr.MP.No.11 of 2016, dated 04.08.2016, and quash the same and direct the respondents to produce the detenu by name, Ananthi, Wife of Govindaraj @ Raj, aged about 41 years, detained in Special Prison for Women, Tiruchirappalli, before this Court and set him at liberty forthwith.

For Petitioner : Mr.N.Anandapadmanaban
For Respondents : Mr.C.Mayil Vahana Rajendran
Additional Public Prosecutor.

O R D E R

[Order of the Court was made by R.SUBBIAH, J.]

The petitioner is the grandmother of the detenu - Poolpandi, S/o.Kombiah, aged about 23 years. The detenu has been detained by the second respondent, by his order in Cr.MP.No.11 of 2016, dated 04.08.2016, holding her to be a "Drug Offender", as



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 produced by the Detaining Authority.

3. The Detaining Authority, while expressing subjective satisfaction that the detenu conformed to the definition of "Drug Offender" and that her presence at large would be prejudicial to the maintenance of public order and also expressing subjective satisfaction that it was very likely that the detenu would come out on bail in the ground case, passed the impugned detention order. The said order is challenged in the present Habeas Corpus Petition.

4. The learned counseler for the petitioner submitted that the Detaining Authority, for the purpose of clamping the detention order, has relied on five adverse cases and one ground case. The ground case was registered on the basis of a case registered in Crime No.39 of 2016. However, the Detaining Authority, in Paragraph No.5 of the Detention Order, referred to the Crime Number as "13 of 2016", instead of Crime No.39 of 2016, which shows total non-application of mind on the part of the Detaining Authority.

5. We have considered the above submissions.

6. As rightly contended by the learned counsel for the petitioner, the Detaining Authority, in Paragraph No.5 of the Detention Order, referred to Crime No.13 of 2016, though the fact remains that the actual Crime Number, relating to the ground case, is 39 of 2016. For better appreciation, it would be worthwhile to refer to the relevant portion of the detention order, which reads as follows:-

"5. I am aware that Tmt. Ananthi, wife of Govindaraj alias Raj, is in remand in Tiruchirappalli, NIB CID Cr.No.13/2016. She has filed a bail petition before the Presiding Officer, EC Act, Cases and NDPS Act Cases, Pudukkottai, in Cr.M.P.No.1900 of 2016 and the same is pending".

The above extracted portion shows total non-application of mind on the part of the Detaining Authority in mechanically clamping the impugned order of detention. Hence, the plea of non-application of mind on the part of the Detaining Authority, as canvassed by the learned counsel for the petitioner, is liable to be sustained. On that score alone, the order of detention is liable to be set aside.

7. In the result, the Detention Order, passed by the second respondent, in his proceedings in No.Cr.MP.No.11 of 2016, dated 04.12.2016, is quashed. The detenu, namely, Ananthi, Wife of Govindaraj @ Raj, aged about 41 years, is ordered to be set at liberty forthwith, if she is not required for detention in



connection with any other case.

8. In the upshot, we allow the Habeas Corpus Petition.

Sd/-
Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar

To

- 1.The Secretary to Government,
Home Prohibition and Excise Department,
Fort.Saint.George, Chennai.
- 2.The District Collector and District Magistrate,
Office of the District Collector and District Magistrate,
Tiruchirappalli District, Tiruchirappalli.
- 3.The Joint Secretary to Government,
Public(Law & Order),
Fort Saint George,
Chennai-9.
- 4.The Superintendent of Prison,
Special Prison for Women,
Tiruchirappalli District.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

ORDER MADE IN
H.C.P (MD) No.1048 of 2016
Dated: 02.01.2017

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