



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.02.2017

CORAM:

**THE HONOURABLE MR.JUSTICE R.SUBBIAH
AND
THE HONOURABLE MRS.JUSTICE J.NISHA BANU**

H.C.P. (MD) No.1330 of 2016

Rengaraj

: Petitioner

Vs.

1.State of Tamil Nadu, rep. by,
The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George, Chennai-9.

2.The District Magistrate and District Collector,
O/o. The District Magistrate and District Collector,
Pudukkottai District,
Pudukkottai.

3.The Superintendent,
Central Prison,
Tiruchirappalli.

: Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Habeas Corpus, to call for the entire records in detention order passed in P.D.O.No.16/2016, dated 19.09.2016 on the file of the second respondent herein and set aside the same as illegal and direct the respondents to produce the petitioner, namely Rengaraj, S/o.Karuppiyah, male, aged 43 years, who is detained in Central Prison, Tiruchirappalli before this Court and set him at liberty.

For Petitioner : Mr.K.A.S.Prabhu

For Respondents : Mr.C.Mayilvahana Rajendran,
Additional Public Prosecutor

ORDER

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

The petitioner is the detenu - Rengaraj, S/o.Karuppiyah, aged about 43 years. The detenu has been detained by the second respondent by his order in P.D.O.No.16/2016, dated 19.09.2016,



holding him to be a "Bootlegger", as contemplated under Section 2 (b) of Tamil Nadu Act 14 of 1982. Challenging the same, he has come up with the present petition.

2. Though a number of grounds have been raised assailing the order of detention, at the time of making submission, the learned counsel for the petitioner submitted that the Detaining Authority, while arriving at the subjective satisfaction that there is likelihood of the detenu coming out on bail, in paragraph No.5 of the grounds of detention, has stated that the relatives of the accused are taking steps to release the accused on bail. However, no supportive materials were produced to show that the relatives of the detenu are taking steps to release him on bail. The Detaining Authority, without any supportive material, has detained the petitioner as Bootlegger and hence, the observation made by the Detaining Authority shows the non-application of mind on the part of the Detaining Authority and hence, on that ground, the detention order is liable to be set aside.

3. The submissions made by the learned Additional Public Prosecutor in reply to the above said contention raised by the learned counsel for the petitioner are also heard.

4. In our considered opinion, the Detaining Authority, while relying upon some particulars, for clamping the order of detention as against the detenu, ought to have gone through the entire materials and furnished the same to the detenu, so as to enable the detenu, to challenge the order of detention in an effective manner. The failure to do so would vitiate the order of detention. Therefore, on that score alone, the order of detention is liable to be set aside.

5. In the result, this Habeas Corpus Petition is allowed and the impugned Detention Order, passed by the second respondent, in his proceedings in P.D.O.No.16/2016, dated 19.09.2016, is quashed. The detenu, namely Rengaraj, S/o.Karupppiah, aged about 43 years, is ordered to be set at liberty forthwith, if he is not required for detention in connection with any other case.

Sd/-

Assistant Registrar(T&P)

/True Copy/

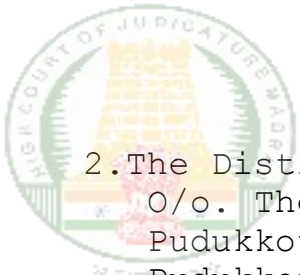
Sub Assistant Registrar

SML

To

1.The Secretary to Government,
State of Tamil Nadu,

<https://hcservices.home.gov.in/hcservices/>
Home, Police, Revenue and Excise Department,
Fort St. George, Chennai-9.



2.The District Magistrate and District Collector,
O/o. The District Magistrate and District Collector,
Pudukkottai District,
Pudukkottai.

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3.The Superintendent,
Central Prison,
Tiruchirappalli.

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

5 The Joint Secretary to Government,
Public (Law & Order)
Fort St. George, Chennai - 9

JAM/27.02.17 /MR/ 3p-6c

Order made in
H.C.P. (MD) No.1330 of 2016
Dated: 13.02.2017