



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **05.01.2017**

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

AND

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

H.C.P.(MD)No.999 of 2016

Rasik

: Petitioner

Vs.

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

2.The District Collector and District Magistrate,
Kanniyakumari District at Nagercoil,
Nagercoil.

3.The Superintendent of Prison,
Central Prison,
Madurai.

: 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 connected with the detention order passed in P.D.No.45/2016, dated 22.07.2016 on the file of the second respondent herein and quash the same and direct the respondents to produce the detenu or body of the detenu namely Thaibu, S/o.Jamal, aged about 27 years, now detained at Central Prison, Madurai before this Court and set him at liberty forthwith.

For Petitioner

: Mr.N.Pragalathan

For Respondents

: Mr.C.Mayilvahan Rajendran,
Additional Public Prosecutor

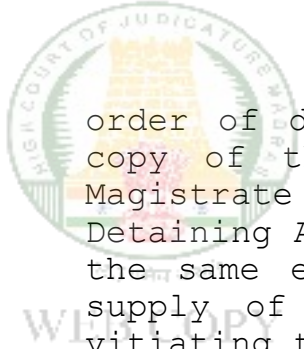
ORDER

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

The petitioner is the brother of the detenu-Thaibu, S/o.Jamal, aged about 27 years. The detenu has been detained by the second respondent by his order in P.D.No.45/2016, dated 22.07.2016, holding him to be a "Drug Offender", as contemplated under Section 2 (e) of Tamil Nadu Act 14 of 1982.

2. Though a number of grounds have been raised assailing the order of detention, the learned counsel for the petitioner mainly relies on the following contention:-
<https://hcservices.ecourts.gov.in/hcservices/>

There was denial of reasonable opportunity to challenge the



order of detention in an effective manner by the non-supply of a copy of the extension of remand order by the learned Judicial Magistrate No.II, Nagercoil, though he made a representation to the Detaining Authority to furnish the same. Failure to supply a copy of the same even after a representation was made in writing seeking supply of the same amounts to denial of reasonable opportunity vitiating the order of detention itself.

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 the remand extension order, for clamping the order of detention as against the detenu, ought to have furnished a copy of the same. The failure to do so, in spite of making such representation, amounts to denial of reasonable opportunity to make an effective challenge to the order of detention. 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.No.45/2016, dated 22.07.2016, is quashed. The detenu, namely Thaibu, S/o.Jamal, aged about 27 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(AE)

/True Copy/

Sub Assistant Registrar

To

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

2.The District Collector and District Magistrate,
Kanniyakumari District at Nagercoil,
Nagercoil.

3.The Superintendent of Prison,
Central Prison,
Madurai.

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



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

SML

MAS/SS2-KSM:23.01.2017: 3P/6C

Order made in
H.C.P. (MD) No.999 of 2016
Dated: 05.01.2017