

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.07.2018

CORAM:

THE HON'BLE DR. JUSTICE S.VIMALA
AND
THE HON'BLE MRS. JUSTICE S.RAMATHILAGAM

H.C.P.No.141 of 2018

R.Selvam

... Petitioner

versus

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

2. The Commissioner of Police,
Salem City,
Salem.

... Respondents

Habeas Corpus Petition filed under Article 226 of Constitution of India. for the issuance of Writ of Habeas Corpus, directing the respondents to produce the body of the detainee by name Manikandan, S/o.Selvam, aged 30 years, presently confined at Central Prison, Salem, before this Court and set him at liberty forthwith, after calling for the records pertaining to the detention order dated 14.09.2017 in C.M.P.No.76/Goondas/Salem City 2017 passed by the 2nd respondent and quash the same.

For Petitioner : Mr.R.Prabakar

For Respondents : Mr.R.Prathap Kumar
Additional Public Prosecutor

ORDER
(DELIVERED BY DR. S.VIMALA, J.)

This Habeas Corpus Petition has been filed by the father of the detenu seeking a direction to the respondents to produce the detainee, Manikandan, who is now confined at Central Prison, Salem, before this Court and quash the order of detention dated 14.09.2017 passed in C.M.P.No.76/Goondas/Salem City 2017 by the 2nd respondent.

2. The second respondent herein, Commissioner of Police, Salem, passed an order of detention dated 14.09.2017 as against the detenu Manikandan, as the said authority arrived at the subjective satisfaction that the said detenu is a 'Goonda' and he has to be detained under Section 3 (1) of Tamil Nadu Act 14 of 1982 with a view to preventing him from acting prejudicial to the interest of public health and public order.

3. The learned Additional Public Prosecutor appearing for the respondents submits that neither the petitioner nor the detenu has submitted a representation to the concerned authorities and therefore, the detenu has no cause to complain about the non-consideration of the case of the detenu.

4. The learned counsel appearing for the petitioner submits that a copy of the arrest intimation was neither served on the petitioner nor on the relatives of the petitioner. Further, the materials furnished by the respondents in the typed set of documents, more particularly, page Nos.41, 43, 79 and 80 are illegible and the same has prevented the detenu in filing a representation before the detaining authority. Therefore, the subjective satisfaction arrived at by the detaining authority is vitiated, in that the detenu was prevented from making an effective representation and hence, the order of detention has to be quashed.

5. A perusal of the typed set of papers reveals that the documents at page Nos.41,43,79 and 80 are illegible, relying on which detention order has been passed by the detaining authority. The non-furnishing of legible copies has prevented the detenu from submitting an effective representation. Therefore, the above act of the respondents in not furnishing legible copies vitiates the order of detention and the same is liable to be quashed.

6. Accordingly, the order of detention is quashed. The habeas corpus petition is allowed. The detenu, Manikandan, S/o.Selvam, is ordered to be set at liberty forthwith, unless his custody is otherwise required in connection with any other case.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government,
Home, Prohibition and Excise Dept.,
Fort St. George,
Chennai - 9.

2. The Commissioner of Police,
Salem City,
Salem.

3. The Superintendent of Police,
Central Prison, Salem.

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

5. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.R.Prabakar, Advocate, S.R.No.44390

H.C.P.No.141 of 2018

VGII(CO)
GSP(12/09/2018)



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