

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 17.07.2018

CORAM

THE HONOURABLE DR. JUSTICE S.VIMALA
AND
THE HONOURABLE MRS. JUSTICE S.RAMATHILAGAM

H.C.P. NO. 199 OF 2018

Mariammal

.. Petitioner

- Vs -

1. State of Tamil Nadu
rep. By its Secretary
Prohibition & Excise Dept.
Fort St. George, Chennai - 9.
 2. The District Collector &
District Magistrate
Kancheepuram, Kancheepuram Dt.
 3. The Inspector of Police
Chengalpattu Taluk Police Station
Chengalpattu.
- ... Respondents

Petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of habeas corpus calling for the records on the file of the 2nd respondent relating to the detention in order BCDFGISSSV No.02/2018 dated 9.1.2018 and direct the respondents herein to produce the detenu Mathan @ Mathan Kumar @ Vinoth, S/o Vembuli, aged about 23 years, who is now confirmed in central prison, puzhal before this Hon'ble Court and set him at liberty forthwith.

For Petitioner : Mr. R.Thamaraiselvan

For Respondents : Mr. R.Prathap Kumar, APP

ORDER
(ORDER OF THE COURT WAS MADE BY DR. S.VIMALA, J.)

The second respondent herein clamped an order of detention on Mathan @ Mathan Kumar @ Vinoth, S/o Vembuli, 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.

2. According to the learned counsel for the detenu, the detention order is liable to be quashed on the following grounds :-

i) The arrest intimation was not given to the relatives of the detenu and that the alleged cellphone to which the information is stated to have been given does not belong to the detenu or his sister and there is no proof for showing that intimation through SMS was sent either to the detenu or his relatives;

ii) Two adverse cases have been registered on the same day, which would apparently go to show that those cases cannot be true;

iii) There is a delay of three days in considering the representation.

All the above three grounds vitiates the subjective satisfaction arrived at by the detaining authority and, therefore, the detention order is liable to be quashed.

3. This Court heard the learned Addl. Public Prosecutor on the above contentions.

4. A perusal of the records reveal that no proof whatsoever has been filed to show that arrest intimation has been given to the relatives of the detenu. It is incumbent on the authorities concerned to intimate the relatives of the detenu as to his arrest. Non-communication of the arrest of the detenu to his relatives vitiates the order of detention. Further, there is also a delay of three days in considering the representation submitted by the detenu. Though, delay of three days, in itself, would not be a ground to quash the order of detention, however, the delay coupled with the arrest intimation not being communicated to the relatives of the detenu, definitely vitiates the order of detention.

5. Accordingly, the order of detention is quashed. The

habeas corpus petition is allowed. The detenu, Mathan @ Mathan Kumar @ Vinoth, S/o Vembuli, is ordered to be set at liberty forthwith, unless his custody is otherwise required in any other case.

Sd/-
Assistant Registrar (CS-V)

//True copy//

Sub Assistant Registrar

GLN

To

1. The Secretary to Government
Government of Tamil Nadu
Prohibition & Excise Dept.
Fort St. George, Chennai - 9.
2. The District Collector &
District Magistrate
Kancheepuram, Kancheepuram Dt.
3. The Inspector of Police
Chengalpattu Taluk Police Station
Chengalpattu.
4. The Superintendent,
Central Prison, Puzhal.
5. The Joint Secretary the Government,
Public (Law & Order)
Fort Saint George,
Chennai-9.
6. The Public Prosecutor,
High Court, Madras - 104.

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GMV (24/10/2018)

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