

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.303 of 2018

Malliga

... Petitioner

versus

1. The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Fort St. George,
Chennai - 600 009.
 2. The Commissioner of Police /
Detaining Authority,
Behind Amman Kalyana Mandabam
Athimarathottam,
Sirupooluvapatii,
Tiruppur City, Tiruppur District.
- ... Respondents

Habeas Corpus Petition filed under Article 226 of Constitution of India, for the issuance of Writ of Habeas Corpus, calling for the entire records, relating to the petitioner's son detention under Tamil Nadu Act 14 of 1982 vide detention order dated 05.02.2018 on the file of the second respondent herein made in proceedings Memo C.No.02/G/IS/2018, quash the same as illegal and consequently direct the respondents herein to produce the petitioner's son namely Naveenkumar, S/o.Duraisamy, aged 23 years before this Hon'ble High Court and set the petitioner's son at liberty from detention, now the petitioner's son detained at Central Prison, Coimbatore.

For Petitioner : M/s.W.Camyles Gandhi

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 mother of the detenu seeking a direction to the respondents to produce the detenu, Naveenkumar, S/o.Duraisamy, who is now confined at Central Prison, Coimbatore, before this Court and quash the order of detention dated 05.02.2018 passed by the second respondent herein in proceedings Memo C.No.02/G/IS/2018.

2. The second respondent herein, Commissioner of Police, Tiruppur District, passed an order of detention dated 05.02.2018 as against the detenu Naveenkumar, S/o.Duraisamy, 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. When the matter was taken up on the earlier date, the learned Additional Public Prosecutor submitted that several cases are pending as against this accused/detenu, which are relating to theft of properties and therefore, this is not a fit case for consideration of the representation of the petitioner.

3.1. The learned Additional Public Prosecutor has submitted the details of cases pending against the detenu. From a perusal of the case details, it is evident that there are five adverse cases and one ground case. It is further evident that the five adverse cases relate to the year 2017. Further, those cases have not yet been taken on file.

4. Be that as it may. The learned counsel appearing for the petitioner submits that a copy of the arrest intimation was neither served on the relatives nor on the detenu, which is in violation of the provisions of the Constitution and that materials furnished by the respondents in the typed set of papers are not legible. It is further submitted that the cases have not been taken on file is for the simple reason that all these cases are manipulated cases, to bolster the order of detention. Therefore, the detention order has to be quashed.

5. A perusal of the typed set of papers reveal that the documents, based on which, the detaining authority has passed the detention order are not legible and this has effectively denied the detenu from submitting an effective representation and therefore, vitiates the order of detention. On this short ground alone, this detention order is liable to be quashed.

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

habeas corpus petition is allowed. The detenu, Naveenkumar, S/o.Duraisamy, is ordered to be set at liberty forthwith, unless his custody is otherwise required in connection with any other case.

Sd/-
Assistant Registrar(CO)

//True copy//

Sub Assistant Registrar

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To

1. The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Fort St. George,
Chennai - 600 009.
2. The Commissioner of Police /
Detaining Authority,
Behind Amman Kalyana Mandabam
Athimarathottam,
Sirupooluvapatii,
Tiruppur City, Tiruppur District.
3. The Superintendent of Police,
Central Prison, Coimbatore.
4. The Joint Secretary to Government,
Public (Law & Order)
Fort Saitn George, Chennai -9.
5. The Public Prosecutor,
High Court, Madras -104.

H.C.P.No.303 of 2018

GMV (26/09/2018)

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