

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 24.07.2018

CORAM

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

H.C.P. NO. 473 OF 2018

Girija

.. Petitioner

- Vs -

1. The State of Tamil Nadu
rep. By the Secretary to Government
Home, Prohibition & Excise Dept.
Fort St. George, Chennai 600 009.

2. The Commissioner of Police
Salem City, Salem.

.. 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 pertaining to the order of detention passed by the 2nd respondent in C.M.P. No.11/Goonda/Salem City/2018 dated 23.02.2018 and set aside the same and direct the respondents to produce the detenu, Venkatesh @ Venkatesan, S/o Mani, aged 29 years, confined in Central Prison, Salem, before this Hon'ble Court and set him at liberty.

For Petitioner : Mr. S.Rajinikanth

For Respondents : Mr. R.Prathap Kumar, APP

ORDER

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

The second respondent clamped an order of detention on 23.02.2018 as against Venkatesh @ Venkatesan, S/o Mani, 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. Challenging the order of detention, the petitioner has come forward with the present habeas corpus petition.

3. It is the submission of the learned counsel for the petitioner that except for the ground case, no other case has been filed against the detenu. Solitary case cannot be a ground for applying the laws of preventive detention to detain the detenu. In this regard, reliance was placed by the learned counsel for the petitioner on the Full Bench decision of this Court in Arumugam - Vs - State of T.N. (2011 (4) CTC 353). It is further submitted by the learned counse for the petitioner that similar detention order in respect of the co-accused has already been quashed by this Court. Therefore, the detention of the detenu is also liable to be quashed.

4. This court heard the learned Addl. Public Prosecutor on the above contentions.

5. In Arumugam's case (supra), a Full Bench of this Court, considering whether a solitary case would be sufficient to brand a person as a 'Goonda' and detain him under the preventive detention laws, taking note of the ratio laid down by the Apex Court in Kalavathi's case (2006 (4) CTC 566 (SC)), held as under:-

"Para 13 & 14"

6. From the above, it is crystal clear that a solitary incident would not be sufficient to detain a person under the preventive detention laws, more especially when the person has been branded as a 'Goonda'. In the case on hand, as against the detenu, there is only a single case based on which Act 14 of 1982 has been invoked to detain him. The case of the detenu squarely falls within the ratio laid down by the Full Bench in Arumugam's case (supra) and, therefore, the detention order stands vitiated.

7. Further, it is not in dispute that the detention against the co-accused, who stands on similar footing has been quashed by this Court. Applying the ratio laid down by the Full Bench in arumugam's case (supra), this detention order is liable to be set aside.

8. Accordingly, on the above ground, the order of detention is quashed. The habeas corpus petition is allowed. The detenu, Venkatesh @ Venkatesan, S/o Mani, is ordered to be set at liberty forthwith, unless his custody is otherwise required in any other case.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

GLN

To

- 1.The Secretary to Government.
Home, Prohibition & Excise Department,
Secretariat, Chennai 600 009.
- 2.The Commissioner of Police
Salem City, Salem.
- 3.The Superintendent of Central Prison,
Salem.
- 4.The Joint Secretary to Government,
Public (Law and order),
Fort St.George, Chennai -9.
- 5.The Public Prosecutor,
Madras High Court, Madras-104.

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RR(CO)

rrs 25/10/2018



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