

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 21.08.2018
CORAM
THE HONOURABLE MR.JUSTICE C.T.SELVAM
and
THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR
H.C.P.No.685 of 2018

Kanchana

.. Petitioner

Vs.

1.The Commissioner of Police,
Commissioner Office,
Greater Chennai,
Vepery, Chennai-7.

2.The Secretary to Government of Tamil Nadu,
Prohibition and Excise Department (Home),
Secretariat, Fort St.George,
Chennai-600 009.

.. Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Habeas Corpus, calling for the records relating to the order of detention NO.141/BCDFGISSSV/2018 dated, 10/03/2018 passed by the 2nd respondent and to quash the same and also to direct the detenu Anand, S/O.Selvaraj, aged 36 years, who is presently detained in the Central Prison, Puzhal, Chennai to be produced before this Hon`ble court and set at liberty.

For Petitioner : Mr.P.Prince Premkumar

For Respondents : Mr.M.Mohamed Riyaz
Additional Public Prosecutor.

सत्यमेव जयते
O R D E R

[Order of the Court was made by C.T.SELVAM, J.]

Challenge is made to the order of detention passed by the first respondent vide Proceedings in No.141/BCDFGISSSV/2018 dated 10.03.2018, whereby the detenu, by name, Anand, son of Selvaraj, aged about 36 years, was ordered to be detained under the provisions of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Slum-grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982) branding him as a "GOONDA".

2. The ground case has been registered against the detenu in Cr.No.40 of 2018 on the file of Inspector of Police, K-7 I.C.F. Police Station for offence u/s 302 IPC. The detention order has been passed by first respondent in No.141/BCDFGISSSV/2018.

3. Though many grounds have been raised in the petition, the learned counsel appearing for the petitioner, confines his argument only in respect of non-application of mind on the part of the detaining authority in passing the order of detention.

4. Learned counsel appearing for the petitioner submitted that page Nos.165 and 175 and certain other pages in the booklet furnished to the detenu are illegible and could not be read at all. This illegible copies would deprive the detenu of making effective representation to the authorities against the order of detention. Thus, the detention order is vitiated on this ground and the same is liable to be quashed.

4. Per contra, the learned Additional Public Prosecutor would submit that the order of detention has been passed on cogent and sufficient materials and the same cannot be interfered with at the instance of the petitioner. Therefore, he submits that the Habeas Corpus Petition does not merit any consideration and the same is liable to be dismissed.

5. We have heard learned counsel for both sides with regard to the facts.

6. A perusal of the booklet supplied to the detenu would show that the copies of documents referred and relied upon and referred to by the Detaining Authority, in particular, page Nos. 165 and 175 are illegible and are totally unreadable. This has resulted in the detenu being deprived of making an effective representation. Therefore, the detention order is vitiated and liable to be quashed on this ground alone.

7. It is a trite law that personal liberty protected under Article 21 is so sacrosanct and so high in the scale of Constitutional values that it is the obligation of the detaining authority to show that the impugned detention meticulously accords with the procedure established by law. Preventive detention is preventive and not punitive. When ordinary law of the land is sufficient to deal with, taking recourse to the preventive detention law is illegal.

8. In the light of the above facts and law, we have no hesitation in quashing the order of detention on the above mentioned ground.

9. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order in No.141/BCDFGISSSV/2018 dated 10.03.2018 passed by the first respondent is set aside. The detenu is directed to be released forthwith unless his presence is required in connection with any other case.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

kmi

To

- 1.The Commissioner of Police,
Commissioner Office,
Greater Chennai,
Vepery, Chennai-7.
- 2.The Secretary to Government of Tamil Nadu,
Prohibition and Excise Department (Home),
Secretariat, Fort St.George,
Chennai-600 009.
- 3.The Public Prosecutor
High Court, Madras.
- 4.The Superintendent
Central Prison, Puzhal,
Chennai.
- 5.The Joint Secretary to Government,
Public (Law & Order),
Fort Saint George, Chennai.

H.C.P.No.685 of 2018

rrs 14/09/2018.

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