

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 16.07.2018

CORAM

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

H.C.P. NO. 748 OF 2018

C.Prema

.. Petitioner

- Vs -

1. The Principal Secretary to Government,
Food and Consumer Protection Department,
2nd Floor, Namakkal Kavingar Maligai,
Secretariat, Chennai.
 2. The Commissioner of Police,
Greater Chennai, vepery,
Chennai 600 007.
 3. The Secretary to Government,
Government of India,
Ministry of Consumer Affairs,
Food and Public Distribution
(Department of Consumer Affairs)
Room No.270, Krish Bhavan,
New Delhi 110 001.
- .. Respondents

Petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of habeas corpus, to call for the records in connection with the order of detention passed by the second respondent dated 22.03.2018 in Memo No.5/Black Marketing Act/2018 against the petitioner's husband Christopher, son of Jebamani, aged about 53 years, who is confined at Central Prison, Puzhal, Chennai and set aside the same and direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner : Mr. V.Paarthiban

For Respondents: Mr. R.Prathap Kumar, APP for R1 and R2
: Mr.S.Arockiam, CGSC for R3

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

The petition has been filed by the wife of the detenu challenging the detention of her husband Christopher S/o. Jebamani, who is detained at Central Prison, Puzhal, Chennai. The detaining authority has exercised his power under Section 3 (2) (b) r/w 3(1) of the Prevention of Black Marketing and Maintenance of Supplies of Essential Commodities Act, 1980 and passed the detention order on 22.03.2018. This Detention order is under challenge on two grounds, referring to page No.9 and 21 of the typed set of papers.

2. It is the contention of the learned counsel for the petitioner that though in the English version of the order of detention, the names and address of two authorities have been given to whom representation has to be addressed, however, in the Tamil version, only the name and address of one authority has been given. In essence, the Tamil version is not a verbatim translation of the English version. The above discrepancy has denied the detenu from making an effective representation and, therefore, this discrepancy vitiates the order of detention.

3. It is further contented by the learned counsel for the detenu that the quality having been put in issue, it is essential for the decision making authorities securely seal the sample. However, the seal affixed on the sample is not legible, which, once again, has denied the detenu from making an effective representation. Similarly, the English version of the detention order reveals that the detenu has been complaining of fever, which is not found in the Tamil version of the detention order and this discrepancy vitiates the order of detention.

4. Learned counsel appearing for the petitioner placed reliance on the decision in Jebharathinam Vs. The Principal Secretary to Government and another, wherein in this Court held as under :-

"10. In the Tamil Version of the Detention Order dated 26.12.2017, there is a reference to one Officer of the Central Government, to whom the Representation is to be made. However, in the English version of the Detention Order dated 26.12.2017, there is a reference to a Representation being submitted to two Officers/Authorities of the Central Government. In fact, the Tamil Version of the Detention Order of the Second Respondent is not an exact verbatim translation of the original in regard to the concerned authority/authorities to whom the representation(s) is /are to be made. This discrepancy in regard to the verbatim translation of the English Version of the

Detention Order, dated 26.12.2017, in Tamil ensures only to the benefit of the Detenu, in the considered opinion of this Court."

5. This Court heard the learned addl. Public Prosecutor on the above contentions.

6. A perusal of the detention order, both the English and the Tamil version reveals that the Tamil version is not a verbatim translation of the English version. Though the names of two authorities to whom representation can be addressed is given in the English version, however, in the Tamil version, the name of only one authority is given. Similarly, in the English version, though the complaint of the detenu that he is suffering from fever is given, however, the same is not found in the Tamil version. The ratio laid down by this Court in Jebarathinam's case (supra) stands squarely attracted. In the considered view of this Court, the discrepancy pointed out above has prevented the detenu from making an effective representation and the above clearly vitiates the order of detention.

4. In such view of the matter, the order of detention is quashed and this habeas corpus petition is allowed. The detenu, Christopher, S/o Jebamani, who is confined at Central Prison, Puzhal, Chennai, is directly to be released forthwith unless his custody/detention is required in connection with any other case.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

ia/ogy

To

1. The Principal Secretary to Government,
Food and Consumer Protection Department,
2nd Floor, Namakkal Kavingar Maligai,
Secretariat, Chennai.
2. The Commissioner of Police,
Greater Chennai, vepery,
Chennai 600 007.

3. The Secretary to Government,
Government of India,
Ministry of Consumer Affairs,
Food and Public Distribution
(Department of Consumer Affairs)
Room No.270, Krish Bhavan,
New Delhi 110 001.

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

5.The Joint Secretary to Government
Public (Law and Order) Department
Fort St.George
Chennai-9

6.The Superintendent
Central Prison, Puzhal
Chennai

7.The public prosecutor
High Court Madras
+1 cc to M/s.S.Arockiam CGSC sr 46395

H.C.P. NO.748 of 2018

nri(co)
aa15/10/2018



WEB COPY