



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.06.2018

CORAM:

THE HONOURABLE Mr. JUSTICE C.T.SELVAM**and****THE HONOURABLE Mr. JUSTICE A.M.BASHEER AHAMED**

H.C.P. (MD) No.523 of 2018

K.Nagarajan

... Petitioner

Vs.

1.State of Tamil Nadu, Rep.by

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

2.The District Collector and District Magistrate,
O/o The District Collector and District Magistrate,
Ariyalur District,
Ariyalur.

3.The Superintendent,
Special Prison for Women,
Tiruchirappalli.

... Respondents

PRAYER: The petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus calling for records in detention order passed in Cr.M.P.No.05/2018 dated 20.02.2018 on the file of the 2nd respondent and set aside the same as illegal and direct the respondents to produce the body or person of the petitioner's wife namely, Indira W/o Nagarajan, aged about 38 years, who is detained in Special Prison for Women, Tiruchirappalli before this Court and set her at liberty.

For Petitioner : Mr.K.A.S.Prabhu
For Respondents : Mr.V.Neelakandan,APP

ORDER**(Order of the Court was made by C.T.SELVAM,J.)**

Petitioner is the husband of the detenu - Indira, wife of Nagarajan. Detenu has been detained by the second respondent by the impugned Detention Order No.Cr.M.P.No.05/2018 dated 20.02.2018, holding her to be a "Immoral Traffic Offender", as contemplated under Section 2(g) of Tamil Nadu Act 14 of 1982.

<https://hcservices.ecourts.gov.in/hcservices/> 2. Though several grounds have been raised in the Habeas Corpus Petition, the learned counsel for the petitioner would mainly focus his argument on the ground that the order of detention has



been passed on 20.02.2108 and the same has been served on the detenu on 26.02.2018. Section 8 of TN Act 14 of 1982 reads as follows:

"8. Grounds of order of detention to be disclosed to persons affected by the order -

(1) When a person is detained in pursuance of a detention order, the Authority making the order shall, as soon as may be, but not later than five days from the date of detention, communicate to him the grounds on which the order has been made and shall afford him the earliest opportunity of making a representation against the order to the State Government.

(2) Nothing in sub section (1) shall require the authority to disclose facts which it considers to be against the public interest to be disclosed."

Though the grounds of detention have been served within a period of 5 days in keeping with Section 8 of the Goondas Act, the further requirement of affording her the earliest opportunity of making a representation against the detention order to the State Government, is denied by serving the booklet, containing the particulars, which are the basis of the order of detention, only on 26.02.2018. Such delay in serving the booklet violates the purpose behind Section 8 of the Goondas Act and hence, it vitiates the order of detention.

3. Accordingly, the Detention Order, passed by the second respondent, in his proceedings in Detention Order in Cr.M.P.No.05/2018 dated 20.02.2018 is quashed. The detenu, namely, Indira, W/o Nagarajan, is ordered to be set at liberty forthwith, if her detention is not required in connection with any other case.

5. In the result, we allow the Habeas Corpus Petition.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar (CS-IV)

To

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

2. The District Collector and District Magistrate,
O/o The District Collector and District Magistrate,
Ariyalur District, Ariyalur.



3.The Superintendent,
Special Prison for Women,
Tiruchirappalli.

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

5.The Addl.Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1CC to Mr.K.A.S.Prabhu Advocate in Sr.No.69088.

NBJ

DS RP SAR-4 ;29.08.2018; 3P/7C

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21.06.2018