



WEB COPY

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.612 of 2018

Murugesan @ Diesel Murugesan ... Petitioner

Vs.

1.The State of Tamil Nadu,
Rep.by its Principal Secretary to Government,
Home, Prohibition and Excise (XIV) Department,
Fort St.George,
Chennai 600 009.

2.The District Magistrate cum District Collector,
O/o The District Magistrate and District Collector,
Pudukkottai District.
Pudukkottai.

3.The Superintendent,
Central Prison,
Tiruchirapalli.

... Respondents

PRAYER: The petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, calling for the entire records in detention order passed in P.D.O.No.07/2018, dated 16.04.2018 on the file of the 2nd respondent and set aside the same as illegal and direct the respondents to produce the petitioner namely, Murugesan @ Diesel Murugesan, S/o Arumugam, male, aged 46 years, who is detained in Central Prison, Tiruchirappalli before this Court and set him at liberty.

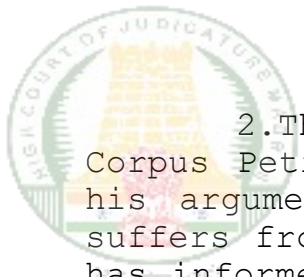
For Petitioner : Mr.K.A.S.Prabhu

For Respondents : Mr.V.Neelakandan, APP

ORDER

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

The petitioner is the detenu - Murugesan @ Diesel Murugesan, S/o Arumugam. The detenu has been detained by the second respondent by the impugned Detention Order P.D.O.No.07/2018, dated 16.04.2018, holding him to be a "Goonda", as contemplated under Section 2(f) of Tamil Nadu Act 14 of 1982.



2. Though several grounds have been raised in the Habeas Corpus Petition, learned counsel for petitioner would mainly focus his argument on the ground that the impugned order of detention suffers from non-application of mind. In that, Detaining Authority has informed knowledge of detenu having moved a bail application in the ground case, however, he has failed to inform the possibility or otherwise of being released on bail. Such position reflects non application of mind in passing detention order, which, according to the learned counsel for the petitioner, shows total non-application of mind on the part of the Detaining Authority, which vitiates the order of detention.

3. We have considered the above submissions.

4. An identical issue was considered by a Division Bench of this Court in T.Chitra Vs. State of Tamil Nadu, reported in 2014 (2) MLJ Cr1 72 and the order of detention was set aside on the ground of non-application of mind. Hence, following the said order, the Detention Order, passed by the second respondent, in his proceedings in Detention Order No.P.D.O.No.07/2018, dated 16.04.2018, is quashed. The detenu, namely, Murugesan @ Diesel Murugesan, S/o Arumugam, is ordered to be set at liberty forthwith, if his detention is not required in connection with any other case.

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

Sd/-

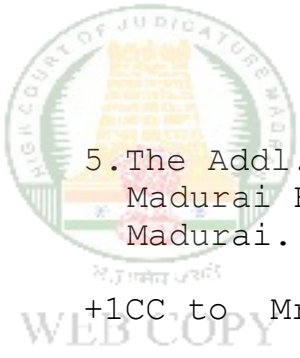
Assistant Registrar (AS)

/True Copy/

Sub Assistant Registrar

To

1. The Principal Secretary to Government,
Home, Prohibition and Excise (XIV) Department,
Fort St. George,
Chennai 600 009.
2. The District Magistrate cum District Collector,
O/o The District Magistrate and District Collector,
Pudukkottai District.
Pudukkottai.
3. The Superintendent,
Central Prison,
Tiruchirapalli.
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, SR.No. 69089

H.C.P. (MD) No.612 of 2018
20.06.2018

NBJ
ES/RP/SAR 1/11.07.2018/3P/7C