



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.07.2018

CORAM:

THE HONOURABLE Mr. JUSTICE C.T.SELVAM

and

THE HONOURABLE Mr. JUSTICE A.M.BASHEER AHAMED

H.C.P.(MD)No.675 of 2018

Kingston @ King

... Petitioner

Vs.

1. The Principal Secretary to Government,
Home, Prohibition & Excise Department,
Secretariat, Fort St.George, Chennai - 600 009.

2. The District Collector and District Magistrate,
Tirunelveli District, Tirunelveli.

3.The Superintendent of Prison,
Central Prison, Palayamkottai, Tirunelveli. ... 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 connected with the detention order of the respondent No.2 in M.H.S.Confdl.No.36/2018 dated 25.04.2018 and quash the same and direct the respondents to produce the body or person of the detenu by name Kingston @ King, son of Muppudathi, aged about 23 years, now detained at Palayamkottai Central Prison before this Court.

For Petitioner : Mr.R.Alagumani

For Respondents : Mr.V.Neelakandan, APP

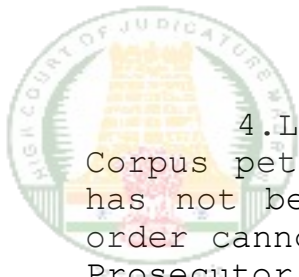
ORDER

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

Petitioner is the detenu - Kingston @ King, son of Muppudathi, aged about 23 years. Detenu has been detained by the second respondent by his order in M.H.S.Confdl.No.36/2018 dated 25.04.2018, holding him to be a "Goonda", as contemplated under Section of 2(f) of the Tamil Nadu Act 14 of 1982. The said order is under challenge in this Habeas Corpus Petition.

2.We have heard learned counsel for petitioner and learned Additional Public Prosecutor for respondents. We have also perused the records produced by the Detaining Authority.

3.Though several grounds have been raised in the Habeas Corpus Petition, the learned counsel for petitioner would mainly focus on the ground that there is gross violation of procedural safeguards, which would vitiate the detention. Learned counsel, by placing authorities, submitted that the arrest of the detenu in the ground case has been not intimated to the family members of detenu and the same finds no support in the booklet produced.



4. Learned Additional Public Prosecutor opposed the Habeas Corpus petition. He would submit that though the arrest of detenu has not been intimated on the score alone, the impugned detention order cannot be quashed. According to the learned Additional Public Prosecutor, no prejudice has been caused to the detenu and thus, there is no violation of the fundamental rights guaranteed under Articles 21 and 22 of the Constitution of India.

5. It is a case, among other grounds, where the learned counsel for the petitioner would urge that the arrest of the detenu in the ground case has not been intimated to the family members or the relatives or to the known persons of the detenu as per the procedure laid down. Therefore, the respondents have failed to satisfy this Court on due compliance of Section 50(2) of Cr.P.C., which vitiates the dictum of Hon'ble Apex Court in D.K.Basu Vs. State of West Bengal reported in AIR 1997 SC 610.

6. In view of the above decision rendered by the Hon'ble Apex Court in D.K.Basu's case, this Court is of the view that the detention order is unsustainable in law on the ground of intimation of arrest not made effecttively, and therefore, the right conferred upon the detenu to impugne the arrest effected on him is affect. Hence, the detention order is liable to set aside.

7. In the result, the Detention Order, passed by the second respondent, in his proceedings in M.H.S.Confdl.No.36/2018 dated 25.04.2018 is quashed. The detenu, namely, Kingston @ King, son of Muppidathi, is ordered to be set at liberty forthwith, if his detention is not required in connection with any other case. Accordingly, we allow the Habeas Corpus Petition.

Sd/-

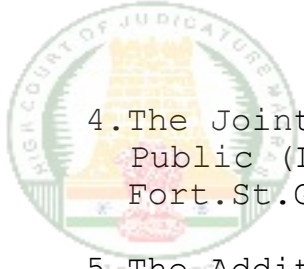
Assistant Registrar (AE)

/True Copy/

Sub Assistant Registrar(CS-I)

To

1. The Principal Secretary to Government,
Home, Prohibition & Excise Department,
Secretariat, Fort St.George,
Chennai - 600 009.
2. The District Collector and District Magistrate,
Tirunelveli District,
Tirunelveli.
3. The Superintendent of Prison,
Central Prison, Palayamkottai,
Tirunelveli.



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

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

H.C.P. (MD) No. 675 of 2018
04.07.2018

NBJ
ES/PN/SAR 1/24.07.2018/3P/6C