



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.07.2018

CORAM:

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

H.C.P.(MD)No.879 of 2018

Asaithambi

... Petitioner

Vs.

1. State of Tamil Nadu,
Rep. by The Secretary to Government,
Home, Prohibition and Excise Department,
Fort, St.George, Chennai 600 009.
2. The District Collector and District Magistrate,
O/o The District Collector and District Magistrate,
Tiruchirappalli District,
Tiruchirappalli.
3. The Superintendent,
Central Prison,
Tiruchirappalli.

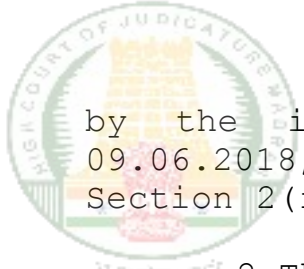
... Respondents

PRAYER: The petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, calling for the entire records pertaining to the detention order passed in Cr.M.P.No.18/2018 dated 09.06.2018 on the file of the 2nd respondent herein and set aside the same as illegal and direct the respondents to produce the person or body of the petitioner's son namely, Abinash son of Asaithambi, male, aged about 21 years, who is detained in Central Prison, Tiruchirappalli before this Court and set him at liberty.

For Petitioner	: Mr.A.Joel Paul Antony
For Respondents	: Mr.V.Neelakandan, APP

ORDER

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



by the impugned Detention Order in Cr.M.P.No.18/2018 dated 09.06.2018, 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 on the ground that the Detaining Authority, while arriving at subjective satisfaction, has erroneously stated that the detenu is an accused in case registered in one of the adverse case ie., in Crime No.131 of 2018 which is factually incorrect, 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 in Cr.M.P.No.18/2018 dated 09.06.2018, is quashed. The detenu, namely, Abinash son of Asaithambi, is ordered to be set at liberty forthwith, if his detention is not required in connection with any other case.

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

Sd/-

Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar (CS-)

To

1. The Secretary to Government,
State of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort, St.George, Chennai 600 009.
2. The District Collector and District Magistrate,
O/o The District Collector and District Magistrate,
Tiruchirappalli District,
Tiruchirappalli.
3. The Superintendent,
Security Force, Police,
Tiruchirappalli.



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

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

NBJ

TE/KAK/SAR-1 : 28/08/2018 : 3P/6C

H.C.P. (MD) No.879 of 2018
26.07.2018