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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.08.2018

CORAM:

THE HONOURABLE Mr. JUSTICE C.T.SELVAM

and

THE HONOURABLE Mr. JUSTICE A.M.BASHEER AHAMED

H.C.P.(MD)No.985 of 2018

Marimuthu

... Petitioner

Vs.

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

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

3.The Superintendent of Prison,
Central Prison,
Palayamkottai.

... 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 relating to the detention order passed by the 2nd respondent in H.S.(M)Confdl.No.20/2018, dated 27.06.2018 quash the same and direct the respondents to produce the person or body of the detenu, namely, Sivakumar, son of Perumal, aged about 25 years, now detained in Central Prison, Palayamkottai before this Court and set him at liberty.

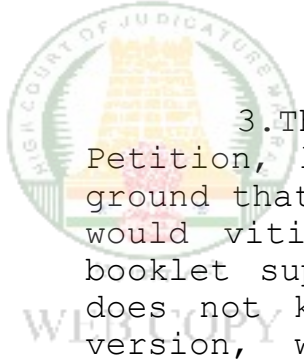
For Petitioner : Mr.C.Mayilvahana Rajendran
For Respondents : Mr.V.Neelakandan, APP

ORDER

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

The petitioner is the brother of detenu herein, viz., Sivakumar, son of Perumal. The detenu has been detained by order in H.S.(M)Confdl.No.20/2018, dated 27.06.2018, holding him to be a "Goonda", as contemplated under 2(f) of 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 Habeas Corpus Petition, learned counsel for petitioner would mainly focus on the ground that there is gross violation of procedural safeguards, which would vitiate the detention. The learned counsel submitted that booklet supplied to detenu is in English version, whereas, detenu does not know English language. Non supply of booklet in Tamil version, which denies the detenu, a right to make effective representation against the order of detention.

4. Learned Additional Public Prosecutor opposed the Habeas Corpus Petition. 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. As rightly contented by learned counsel for the petitioner, English version of booklet alone was furnished, which denies the right to make effective representation against the detention order. The same would show non-application of mind and mechanical clamping of the order of detention by the Detaining Authority. Hence, the order of detention is liable to be set aside.

6. In the result, the Detention Order, passed by the second respondent, in his proceedings in H.S.(M)Confdl.No.20/2018, dated 27.06.2018, is quashed. The detenu, namely, Sivakumar, son of Perumal, 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 (CS-I)

/True copy/

Sub Assistant Registrar(CS-III)

To

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

H.C.P. (MD) No. 985 of 2018
02.08.2018

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NBJ

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