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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.06.2019

CORAM

THE HON'BLE DR.JUSTICE VINEET KOTHARI
AND
THE HON'BLE MR.JUSTICE C.V.KARTHIKEYAN

W.A.No. 1521 of 2013

And

M.P.No. 1 of 2013

Tamilarasu

Appellant / Petitioner

Vs.

1. The State of Tamil Nadu
Represented by its Secretary
Department of Home
Fort St. George
Chennai - 600 009.

2. The District Collector
Salem District,
Salem.

Respondents/Respondents

Writ Appeal filed under Clause 15 of Letters Patent against the order passed by this Hon'ble Court in W.P.No. 14282 of 2013 dated 05.07.2013 dismissing the Writ Petition as not maintainable is unjust and illegal.

Prayer in WP.No.14282 of 2013:

Petition filed under Article 226 of the Constitution of India praying this Hon'ble court to issue a Writ of Mandamus, directing the respondents to consider the representation dated 13.05.2013 by not detaining the petitioner under Tami Nadu Act 14 of 1982 and Goondas Act.

For Appellant : Mr. R.Sankarasubbu

For Respondent : ***Mr.N.Srinivasan**
Additional Government Pleader



J U D G M E N T

(Delivered by DR.VINEET KOTHARI, J)

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The Appellant Mr.Tamilarasu, an Ex-MLA has preferred a Writ Petition before this Court seeking a direction to the respondents District Collector and the authorities of the State not to detain him in preventive basis under the provisions of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug-Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Slum Grabbers and Video Pirates Act, 1982 (Act 14 of 1982).

2. The learned Single Judge after discussing the relevant provisions of the Act held that no such omnibus direction or injunction can be granted in favour of the petitioner/appellant. The relevant portion of the order passed by the learned Single Judge is quoted for ready reference:-

"22. The Tamil Nadu Act 14 of 1982 contains string of provisions to take care of the situation. In view of the statutory scheme, there is no question of directing the respondents not to detain the petitioner. Since the very prayer in the representation was to restrain the authorities from detaining the petitioner by invoking Act 14 of 1982, the question of issuing a direction for consideration of such representation also does not arise.

Legal position:-

23. The law is therefore clear that writ petition for a direction to the authorities under Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug--Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Slum Grabbers and Video Pirates Act, 1982, not to detain a person is not maintainable, before passing any such order for preventive detention.

24. In the upshot, I dismiss the Writ Petition. Consequently, the connected MP is closed. No costs."



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3. The learned counsel for the appellant submitted that since there was no criminal case registered against the said appellant/petitioner, the authorities ought to have been directed by the learned Single Judge not to detain the appellant.

4. On the other hand, learned Additional Government Pleader has drawn our attention to paragraph No.6 of the Order passed by the learned Single Judge which inter alia makes a mention that the petitioner/appellant was arrested in Cr.No. 271 of 2013 by the police on 02.05.2013 and was later on released on bail on 08.05.2013.

5. Having heard the learned counsels for the parties, we are of the opinion that no exception can be taken to the observations made by the learned Single Judge that no such omnibus preventive directions can be issued to the concerned competent authorities not to arrest the petitioner/appellant as prayed for. The petitioner, if detained under the provisions of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug-Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Slum Grabbers and Video Pirates Act, 1982 has to invoke the procedure prescribed under the said Act in accordance with law.

6. We are satisfied that no such omnibus directions as prayed for can be granted in the present case. We further find that a considerable time has elapsed since 2013 when the petitioner/appellant had approached this Court by way of the aforesaid Writ Petition which came to be disposed of also way back on 05.07.2013. There is no further fresh material placed before us to take a different view of the matter at this stage.

7. With the aforesaid liberty to the appellant/petitioner, the Writ Appeal is disposed of. No costs. Connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS VI)

Dated : 12/08/2019

***Corrected as per letter
dated 02.11.2019**

Sd/-

Assistant Registrar(CS VI)

Dated : 18/11/2019

//True Copy//

Sub Assistant Registrar

vsg



To

1. The Secretary
The State of Tamil Nadu
Department of Home
Fort St. George
Chennai - 600 009.
2. The District Collector
Salem District,
Salem.

To be substituted to the order
already dispatched on 30.09.2019

+1cc to Mr.R.Sankarasubbu, Advocate, S.R.No.47591

+1cc to the Government Pleader, S.R.No.48620

W.A.No. 1521 of 2013
And
M.P.No. 1 of 2013

SV(CO)

RRS (21/08/2019)
GMY (19/11/2019)