

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.06.2019

CORAM

THE HON'BLE MR.JUSTICE M.M.SUNDRESH
AND
THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

H.C.P.NO.567 OF 2019

Henry Selvam

... Petitioner/Son of the Detenue

-vs-

1. The Secretary to Government
Ministry of Consumer Affairs,
Food and Public Distribution
(Department of Consumer Affairs)
Government of India,
Room No.270, Krishi Bhawan,
New Delhi - 110 001.
2. The Secretary to Government
Food and Consumer Protection Department,
2nd Floor, Namakkal Kavingar Maaligai,
Secretariat, Chennai - 09
3. The Commissioner of Police,
Greater Chennai,
Office of the Commissioner of Police,
Vepery, Chennai - 600 007

... Respondents

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 third respondent in No.03/2019 dated 15.02.2019 and quash the same as illegal and direct the respondents to produce the body and person of the petitioner's father namely Christopher, son of Jebamani, aged about 54 years, detained in Central Prison, Puzhal, Chennai, before this Hon'ble Court and set him at liberty.

For Petitioner : Mr.R.Parthiban
for M/s.S.Mohamed Ansar

For Respondents : Mr.C.Iyyappa Raj
Addl. Public Prosecutor

ORDER

[Order of the Court was made by M.M.SUNDRESH, J.]

The petitioner is the son of Christopher, son of Jebamani, aged about 54 years, who is the detenu. The detenu has been detained by the third respondent by his order in No.03/2019 dated 15.02.2019, holding him to be a "Black Marketeer", as contemplated under sub section 3(2)(b) r/w 3(1) of the Prevention of Black Marketing and Maintenance of Supplies of Essential Commodities Act, 1980. The said order is under challenge in this Habeas Corpus Petition.

2. The Detention Order was passed by the third respondent on 15.02.2019. While passing the Detaining Order, the Detaining Authority made reliance upon the statements of the witnesses 1 and 2, by name, Balu and Sundaram. The Detention Order further states that these two persons have given statements that the detenu and his associate was purchasing the rice meant for Public Distribution System at a meagre price, hoarding and smuggling the same to the neighbouring States and selling it in black market for a higher price.

3. The learned counsel appearing for the petitioner would submit that no such statements have been given. Reliance has been made on the statements given by the witnesses 1 and 2. The learned counsel further stated that these two witnesses merely stated about the hoarding and selling but not the transportation and selling in the neighbouring States in the black market at higher price.

4. We have perused the statements of the witnesses 1 and 2. We find that the submission made by the learned counsel appearing for the petitioner appears to be correct and there is no reference about the transportation and selling of rice meant for Public Distribution System outside the neighbouring States for a higher price. Thus, we find non-application of mind on the part of the detaining authority and the impugned order of detention is liable to be quashed.

5.

5. In such view of the matter, the Habeas Corpus Petition is allowed and the order of detention passed by the third respondent in No.03/2019 dated 15.02.2019 is set aside. The detenu, Christopher, son of Jebamani, aged about 54 years is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

mmi/ssm

To

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(Department of Consumer Affairs)
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3. The Commissioner of Police,
Greater Chennai,
Office of the Commissioner of Police,
Vepery, Chennai - 600 007
4. The Superintendent, सत्यमेव जयते
Central Prison, Puzhal, Chennai.
5. The Public Prosecutor,
High Court, Madras.
6. The Joint Secretary to Government,
Public (Law & Order),
Fort St.George, Chennai-9.

H.C.P.No.567 of 2019

RSI(CO)
CS/25/07/2019