

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.10.2019

Coram

The Hon'ble Mr. Justice M.M.SUNDRESH
and
The Hon'ble Mr. Justice RMT. TEEKAA RAMAN

H.C.P. No. 1653 of 2019

M.Vani

... Petitioner

-vs-

1.The Additional Chief Secretary to Government,
Home,Prohibition and Excise Department,
Secretariat, Chennai.

2.The Commissioner of Police,
Greater Chennai,Vepery,
Chennai - 600 007.

.... Respondents

Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus to call for the records in connection with the order of detention passed by the second respondent dated 24.06.2019 in Memo No. 351/BCDFGISSSV/2019 against the petitioner's husband Magesh, Son of Kuppusamy, aged about 36 years, who is confined at Central Prison, Puzhal, Chennai and set aside the same and direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner

: Mr.V.Paarthiban

For Respondents

: Mr.R.Prathap Kumar
: Addl. Public Prosecutor

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

The petitioner is the wife of the detenu Magesh, Son of Kuppusamy, male, aged about 36 years. The detenu has been detained by the second respondent by his order in Memo No. 351/BCDFGISSSV/2019 dated 24.06.2019, holding to be a "Goonda", as contemplated under Section 2(f) of Tamil Nadu Act 14 of 1982. The said order is under challenge in this Habeas Corpus Petition.

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

3. Though learned counsel for the petitioner has raised several other grounds to assail the order of detention, he has mainly focused his argument on the ground that the detaining authority, while detaining the detenu, has not furnished the legible copy of the document relied on by him and the remand order has not been properly translated in vernacular language. This deprived the detenu from making effective representation. Therefore, on this sole ground, the detention order is liable to be quashed.

4. On consideration of the submissions made on either side and upon perusal of the documents available on record, especially Page Nos. 126 and 176 of the booklet, it is clear that the detaining authority, by providing illegible copy of the document, has taken away the rights of detenu to effectively defend himself against his detention. Apart from that, the remand order has not been properly translated in vernacular language. Thus the impugned detention order is liable to be set aside on this ground.

5. In the result, the Habeas Corpus Petition is allowed and the order of detention in Memo No. 351/BCDFGISSSV/2019 dated 24.06.2019 passed by the second respondent is set aside. The detenu, namely, Magesh, Son of Kuppusamy, male, aged about 36 years is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

mmi/ssm

To

- 1.The Additional Chief Secretary to Government,
Home,Prohibition and Excise Department,
Secretariat, Chennai.
- 2.The Commissioner of Police,
Greater Chennai,Vepery,
Chennai - 600 007.
- 3.The Superintendent of Prison,
Central Prison, Puzhal,Chennai.
- 4.The Joint Secretary to Government,
Public (Law and order) Fort.St.George, Chennai 9.
- 5.The Public Prosecutor,
High Court, Madras.

H.C.P. No. 1653 of 2019

A.SK(28/11/2019)



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