

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.12.2019

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH
and
THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

H.C.P.No.2159 of 2019

Kiran Kashyap

W/o.Vikash @ Yogendra Kashyup

... Petitioner/Wife of the detenue

Vs

1. The Commissioner of Police

Greater Chennai,
Chennai City,
Vepery, Chennai - 7.

2. The State of Tamil Nadu

Rep.by its Secretary to Government Home,
Prohibition and Excise Department,
Fort St.George,
Chennai - 9.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus calling for the records and quash the same leading to the detention of the petitioner's husband Vikash @ Yogendran Kashyup son of Ram Lal Kashyp aged 31 years, detained under act 14/82 vide detention order dated 14.08.2019 on the file of the first respondent herein made in Memo No.490/BCDFGISSSV/2019 the same and consequently direct the respondent herein to produce the body and person of the said detenu before this Hon'ble Court and thereafter set him at liberty.

For Petitioner : M/s.P.Siva Muruganantham

For Respondents: Mr.R.Prathap Kumar

Additional Public Prosecutor

O R D E R

[Order of this Court was made by R.SUBBIAH, J]

Petitioner is the wife of the detenu viz., Vikash @ Yogendran Kashyup, aged 31 years, who has been branded as a 'Immoral Traffic Offender' under the Tamil Nadu Act 14 of 1982 and detained under order of first respondent passed in Memo No.490/BCDFGISSSV/2019 dated 14.08.2019.

2. The alleged ground case has been registered against the detenu in Crime No.23 of 2019 on the file of Anti-Vice Squad 2, Chennai - CCB for offences u/s. 3(2)a, 4(1), 5(1)a, 6(1), 7(1) of ITP Act. Aggrieved by the order of detention, the present writ petition has been filed.

3. Heard learned counsel for petitioner and learned Additional Public Prosecutor appearing for respondents. Perused the materials on record.

4. Learned counsel for petitioner submits that page No.173 in the booklet furnished to the detenu is illegible. Learned counsel informs that the same adversely has affected his right of making an effective representation.

5. When the documents furnished to the detenu are illegible, opportunity of clear understanding and making effective representation in keeping with Article 22(5) of the Constitution of India on such understanding is lost and the detenu is deprived thereof. This would vitiate the order of detention. For the aforesaid reasons, this Court would allow the present petition.

6. Accordingly, the Habeas Corpus Petition is allowed and the detention order passed by the first respondent against the detenu viz., Vikash @ Yogendra Kashyup, in Memo No.490/BCDFGISSSV/2019 dated 14.08.2019, is quashed. The above named detenu is ordered to be set at liberty forthwith, unless his custody is required in connection with any other case.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

dpq

To

1. The Secretary to Government Home, State of Tamil Nadu
Prohibition and Excise Department,
Fort St.George,
Chennai - 9.
2. The Commissioner of Police
Greater Chennai,
Chennai City,
Vepery, Chennai - 7.
3. The Superintendent of Central Prison,
Puzhal, Chennai.
4. The Joint Secretary to Government,
Public(Law & Order),Fort St.George,Chennai-9.
5. The Public Prosecutor,
High Court, Madras.

H.C.P.No.2159 of 2019

sr(co)
nr 14/02/2020



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