

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 08.04.2019

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MR. JUSTICE M.NIRMAL KUMAR

HCP.No.2816 of 2018

Nirmala

...Petitioner/Detenu's Mother

Versus

1.The State of Tamil Nadu
rep.by its Secretary,
to Government (home)
Prohibition and Excise Department
Secretariat, Fort St.George,
Chennai-600 009.

2.The District Collector cum
District Magistrate,
Cuddalore District,
Cuddalore.

...Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of habeas corpus calling for the entire records relating to the impugned order of detention passed by the second respondent in C3/D.O./71/2018 dated 22.11.2018 and set aside the same and consequently direct the respondents to produce the detenu Meganathan, son of Senthilvelan, aged about 29 years, petitioner's Son now confined at Central Prison, Cuddalore before this Court and set him at liberty forthwith.

For Petitioner : Mr.S.Saravanakumar

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

ORDER

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

The petitioner is the mother of the detenu, who, vide impugned Order of Detention dated 22.11.2018 passed by the 2nd respondent by invoking Section 2(f) of the Tamil Nadu Act 14 of 1982, in branding the detenu as 'Goonda', came forward to file

this Habeas Corpus petition.

2. A perusal of the grounds of detention would disclose among other things that the detenu came to adverse notice in the following cases:

Sl.No.	Crime No.	Section of law	Date of occurrence
1.	Neyveli Township P.S. Cr.No.188/2013	Sec.147, 148, 294(b), 324, 427, 506(ii) and 307 IPC., r/w Sec.3(1)(x) of Scheduled Caste/Scheduled Tribes (Prevention of Atrocities) Act, 1989	13.03.2013
2.	Kadampuliyr P.S.336/2014	Sec.147, 148, 294(b) 342, 324, 326, 307 IPC	09.09.2014
3.	Kadampuliyr P.S.427/2014	Sec.147, 148, 294(b), 448, 323, 324, 352, 506(ii) IPC r/w Sec.4 of Tamil Nadu Women Harassment Act and Sec.3 of Tamil Nadu Property (Damage & Loss) Act	23.11.2014
4.	Kullanchavadi P.S Cr.No.295/2015	Sec.294(b), 324, 323, 506(ii), 307 IPC., r/w Sec.34 IPC	15.12.2015
5.	Kadampuliyr P.S.120/2017	294(b), 392, 506(ii), 397 IPC	02.04.2017

It is further averred in the ground of detention that on 27.10.2018 at about 06.00 a.m, the Police Constable No.356, came and lodged a complaint at Muthandikkuppam Police Station stating among other things that he was on night duty on 26.10.2018 and while he was in duty for the purpose of securing execution of long pending NBWs and at the morning hours on 27.10.2018, they found a person with a motorcycle bearing Registration No.TN31-AF-3002 and when the Police constable was questioned, he abused him and also stated that he has got very many cases and in the process, he attacked the defacto complainant/Police constable on the stomach and also made an attempt to murder him. Based on the complaint given by the defacto complainant, Cr.No.188/2018 under Section 294(b), 323, 324, 353, 506(ii) and 307 IPC (ground case). The detenu was apprehended at about 11 a.m on 27.10.2018 and he voluntarily came forward to give a confession statement and based on the admissible portion of the confession statement, certain incriminating articles were seized. The detenu was

produced before the Court of Judicial magistrate No.1, Panruti and was ordered to be remanded to judicial custody till 09.11.2018 and his remand period was extended upto 23.11.2018.

3. The Detaining Authority namely, the 2nd respondent, on the basis of materials, formed a subjective satisfaction that the detenu, who has committed the crime, have already came to adverse notice in five cases and his acts are prejudicial to the maintenance of public order and accordingly, clamped the impugned order of detention and challenging the legality of the same, the present Habeas Corpus Petition is filed.

4. The learned counsel appearing on behalf of the detenu has drawn attention of this Court to the booklet and would submit that page nos.3, 24, 28, 36, 125 & 126 are highly illegible and the vernacular version of the documents in Page Nos.89, 91, 92, 148 have not been furnished and despite the representations dated 26.12.2018 have been submitted to the concerned officials for furnishing of the legible copies as well as vernacular version of the documents, he is yet to be furnished with the same and hence prays for quashment of the impugned order of detention.

5. Per contra, Mr.C.Iyyapparaj, learned Additional Public Prosecutor appearing for the State would submit that the representation submitted on behalf of the detenu have been duly considered and the same has been rejected and necessary communication has also been sent on 25.01.2019 and hence prays for dismissal of this Habeas Corpus petition.

6. This Court has considered the rival submissions and also perused the entire materials placed before it.

7. A perusal of the booklet would disclose that Page nos.3, 24, 28, 36, 125 & 126 pertain to adverse cases have not been legible and though it is claimed that the representation submitted in this regard has been rejected and communicated on 25.01.2019, in the considered opinion of this Court, the same cannot be construed that the copies are legible. It is to be noted at this juncture on account of the furnishing of illegible copies, the detenu was prevented from making effective representation for revoking the order of detention. Though it is represented by the learned counsel for the petitioner that the vernacular version of the documents in pg.nos. 89, 91, 92, 148 have not been furnished, this Court is of the considered view that the said submission has been rejected for the reason that admittedly, the petitioner is a Diploma Holder and the contents of the documents are mere descriptive, only giving particulars of the accused and the same has not resulted in any prejudice to the detenu. In the light of page nos.3, 24, 28, 36, 125 & 126

are illegible and despite representation submitted for furnishing clear copies of the same, it has been rejected without adducing any proper reason. Hence, on the sole ground, it warrants interference.

8. Accordingly, the Habeas Corpus Petition stands allowed and the Detention Order passed by the second respondent in C3/D.O./71/2018 dated 22.11.2018 is set aside and the detenu, namely Meganathan, son of Senthilvelan, aged about 29 years, who is now confined at Central Prison, Cuddalore is set at liberty forthwith unless his detention / custody is required in connection with any other case / proceedings.

sk

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Secretary to Government (Home) to Tamil Nadu, Prohibition and Excise Department Secretariat, Fort St.George, Chennai-600 009.
2. The District Collector cum District Magistrate, Cuddalore District, Cuddalore.
3. The Public Prosecutor High Court, Madras.
4. The Superintendent, Central Prison, Chennai.
5. The Joint Secretary to Government, Public (Law & Order), Fort St.George, Chennai -600 009.

+1cc to Mr.S.Saravanakumar, Advocate, SR.No.33953

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Kak(08/07/2019)

Kak(22/08/2019)