

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

H.C.P.No.2822 of 2018

Sangeetha

.. Petitioner

Vs.

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

2.The District Collector and District Magistrate
Villupuram District
Villupuram.

... 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 made in impugned order C2/33417/2018 dated 23.11.2018 on the file of second respondent herein and quash the same as illegal and direct the respondents to produce the detenu Ravi, son of Rangasamy, now confined at Central Prison Cuddalore, before this Court and set him at liberty to secure the ends of justice.

For Petitioner .. Mr.R.Sankarasubbu

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

ORDER

(Order of the Court was made by M.SATHYANARAYANAN, J)

The petitioner, who is the wife of the detenu, namely Ravi, S/o.Rangasamy, aged 29 years, challenging the legality of the

impugned order of detention dated 23.11.2018 passed by the second respondent, in and by which, her husband has been branded as 'Goonda' under the provisions of Section 3(1) of the Tamil Nadu Prevention of Dangerous Activities of Boot-leggers, Cyber Law Offenders, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Sexual Offenders, Slum-Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14/1982), came forward to file the present Habeas Corpus Petition.

2. A perusal of the grounds of detention would disclose among other things that the detenu along with co-accused had murdered one Abdul Jabbar, who is a retired Special Sub Inspector of Police. It is further alleged in the grounds of detention that the detenu was said to have involved in river sand theft and several cases were registered against him in connection with above crimes and due to which he incurred heavy loss. According to the detenu, the said Abdul Jaffar acted as an informant to Police, based on which, cases of river sand theft were registered against the detenu and taking revenge of it, the detenu along with co-accused had murdered the said Abdul Jabbar on 27.06.2018. Based on the complaint given by Samsudhin, the brother of the deceased, to the Inspector of Police, Thiruvannainallur Police Station, a case was registered in Crime No.528/2018 under Section 302 IPC. On 27.06.2018 @ 20.00 hrs., and the police took up the case for investigation.

3. During the course of investigation, one of the accused was arrested on 22.08.2018 and he voluntarily gave a confession statement admitting the guilt and based on the admissible portion of his confession statement, incriminating articles were seized and information about the crime was gathered. The detenu along with co-accused Selvam was arrested on the same day at 12.00 noon and both of them voluntarily came forward to give confession statement and in terms of the admissible portion of the confession statement, few more incriminating articles have been recovered. The detenu was produced before the Judicial Magistrate Court No.II, Ulundurpet on the same day (22.08.2018), and he was ordered to be remanded to judicial custody till 05.09.2018 and it has been extended till 30.11.2018, and thereafter, the detenu had been lodged in Central Prison, Cuddalore and the case is under investigation.

4. The Detaining Authority on being satisfied that the activities of the detenu in the ground case are prejudicial to the maintenance of public peace and order, has arrived at the subjective satisfaction and clamped the impugned order of detention and challenging the legality of the same, the present Habeas Corpus Petition is filed.

5. Mr.Sankarasubbu, learned counsel appearing for the petitioner has drawn the attention of this Court to the booklet and would submit that the impugned order came to be passed on a solitary incident. He relied upon the documents such as remand, prayer for remand, order extending the custody of the accused and the orders passed therein, and other documents, and would submit that all those details have been furnished only in English language, despite the fact that the detenu knows only Tamil. Thus, the officials have committed error in non-furnishing the Vernacular version of some of the relied upon documents, which prevented the detenu from making effective representation for revoking the order of detention/remand and therefore, prays for quashment of the impugned order of detention.

6. Per contra, Mr.C.Iyyappa Raj, learned Additional Public Prosecutor appearing for the State would submit that the Detaining Authority on thorough consideration of materials, has rightly derived the subjective satisfaction and clamped the order of detention and prays for dismissal of this petition.

7. This Court considered the rival submissions and also perused the materials placed before it.

8. As rightly pointed out by the learned counsel appearing for the petitioner that the relied upon documents referred to above have been furnished only in English, and Vernacular version of the same have not been furnished. Further, it is to be noted at this juncture that the detenu has received the impugned order of detention by signing in Tamil and this may be taken into consideration that the detenu would know only to read and write in Tamil and on account of non-furnishing of some of the relied upon documents in Tamil by the Detaining Authority, the detenu was prevented from making effective representation for revoking the order of detention and the Detaining Authority had failed to apply his mind as to the said defect and passed the impugned order of detention mechanically.

9. In the considered opinion of this Court, the above infirmity would definitely vitiates the subjective satisfaction derived by the Detaining Authority and it would exhibit total non-application of the mind of the Detaining Authority. Therefore, the impugned order of detention is liable to be quashed and accordingly it is quashed.

10. In view of the above, this Habeas Corpus petition is allowed and the detention passed by the second respondent in No.C2/33417/2018, dated 23.11.2018 is hereby set aside. The detenu, viz., Ravi, Son of Mr.Rangasamy, aged 29 years, now

confined in Central Prison, Cuddalore, is directed to be released forthwith unless his presence [or] custody [or] detention is required in connection with any other case/proceedings.

Sd/-
Deputy Registrar (CS)

//True Copy//

Sub Assistant Registrar

ds

To:

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

H.C.P.No.2822 of 2018

VJI (CO)

RRS (17/06/2019)

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