

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.04.2019

CORAM:

THE HONOURABLE Mr.JUSTICE M.SATHYANARAYANAN
and

THE HONOURABLE Mr.JUSTICE M.NIRMAL KUMAR

H.C.P. Nos.2858 of 2018

Kaladevi

... Petitioner

Vs.

1.The State of Tamil Nadu

Rep. by its Secretary to Government
Home, Prohibition & Excise Department
Fort St.George
Chennai - 600 009.

2.The Commissioner of Police /
Detaining Authority

Office of the Commissioner of Police
Coimbatore City
Coimbatore - 641 018.

.. Respondents in both HCPs

Prayer: Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Habeas Corpus, to produce the body of the detenu by name Manikandan @ Poosari Mani, son of Rajkumar, aged 20 years, presently confined at Central Prison, Coimbatore, before this Court and set him at liberty forthwith, after calling for the records pertaining to the detention order and grounds of detention order in Tamil and English dated 01.10.2018 made in Crime No.1414 of 2018, vide C.No.113/G/IS/2018 passed by the second respondent and quash the same.

For Petitioner .. Mr.B.Mohan

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 father of the detenu, namely R.Manikandan @ Poosari Mani, S/o.Rajkumar, aged 20 years, challenging the legality of the impugned order of detention dated 01.10.2018 passed by the second respondent, in and by

which, his son 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 that the detenu came to adverse notice in the following cases :-

Sl.No .	Name of the Police station and Crime No.	Section of law
1.	Coimbatore City, E-2, Peelamedu Police Station; Crime No.21/2017	294(b), 323, 324 and 506 (ii) IPC @ 294 (b), 323, 324 IPC
2.	Coimbatore City, E-2, Peelamedu Police Station; Crime No.58/2018	147, 148, 323, 307, 506 (ii) and 149 IPC
3.	Coimbatore City, E-2, Peelamedu Police Station; Crime No.1414/2018	394, 397 and 302 IPC

It is stated in the grounds of the detention that the defacto complainant, who is a taxi driver by profession, appeared before the Sub Inspector of Police, Law and Order, E-2 Peelamedu Police Station, Coimbatore City on 22.08.2018 and lodged a written complaint stating that on 21.08.2018 at about 22.15 hours, while he and his friends were standing near Rangavilas Mills, HUDCO Colony, Peelamedu, three persons namely Manikandan, Anandaraj and Naveenkumar came in a motorcycle and due to previous enmity, they abused the defacto complainant and his friends. Suddenly, the detenu drew a blood stained knife from his waist and placed it near the neck of the defacto complainant's friend and threatened the defacto complainant and his friends to part with the money. However, the defacto complainant and his friends defended themselves to escape from the clutches of the accused, due to which, they sustained wounds and raised an alarm and the persons nearby people gathered there. On seeing the people, the accused threatened the defacto complainant and his friends with dire consequences and fled away from the scene of occurrence. Based on the complaint given by the defacto complainant, the Sub Inspector of Police registered a case in Cr.No.1415/2018 for the commission of offences under Sections 75(1) (C) TNCP Act 1888 and 323, 384, 506 (ii) IPC [ground case] and took up the case for investigation.

3. During the course of investigation, the detenu was arrested by the Inspector of Police at 07.15 hrs. on 24.08.2018, and on enquiry, he voluntarily came forward to give confession statement and based on the admissible portion of the confession statement, incriminating articles were seized and the detenu was produced before the Court of Judicial Magistrate No.IV, Coimbatore, on 24.08.2018 and he was ordered to be remanded to judicial custody as remand prisoner at Central Prison, Coimbatore and the remand period was extended till 03.10.2018.

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 public order, has clamped the impugned order of detention, branding the detenu as "Goondas" and challenging the legality of the same, this Habeas Corpus Petition is filed.

5. The learned counsel appearing for the petitioner would submit that though the incident had taken place at midnight, admittedly no public would have gathered there and at the best, it can only be stated as law and order problem, whereas the Detaining Authority has clamped the impugned order of detention stating that act of the detenu, was prejudicial to maintenance of public order, which proves the non-application of mind of the Detaining Authority in clamping the impugned order of detention and hence prays for quashment of the same.

6. Per contra, Mr.C.Iyyappa Raj, learned Additional Public Prosecutor appearing for the State would submit that the Detaining Authority, only after due and proper application of mind to the entire materials, has rightly clamped the order of detention and therefore prays for dismissal of this Habeas Corpus Petition.

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

8. The narration of facts in the ground case would disclose that admittedly the incident had occurred at midnight and no public would have gathered at the scene of occurrence and hence, at the best, it can only be stated as "law and order problem" and not as "public problem". Therefore, maintenance of public order is not affected by the acts of the detenu and therefore, impugned order of detention passed by the Detaining Authority is unsustainable.

9. In view of the above, this Habeas Corpus petition is allowed and the detention orders passed by the second respondent in C.No.113/G/IS/2018 dated 01.10.2018 is hereby set aside. The detenu, viz., R.Manikandan @ Poosari Mani, aged 20 years, who is now confined at Central Prison, Coimbatore, is directed

to be released forthwith unless his presence [or] custody [or] detention is required in connection with any other case/proceedings.

Sd/-
Assistant Registrar (CS VI)

//True Copy//

Sub Assistant Registrar

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To:

- 1.The Secretary to Government
Home, Prohibition & Excise Department
Fort St.George, Chennai - 600 009.
- 2.The Commissioner of Police /Detaining Authority
Office of the Commissioner of Police
Coimbatore City
Coimbatore - 641 018.
- 3.The Public Prosecutor
High Court, Madras.

+2ccs to Mr.B.Mohan, Advocate, S.R.No.35366

H.C.P. Nos.2858 of 2018

SPD (CO)

RRS (24/06/2019)



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