

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.04.2019

CORAM:

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

H.C.P.No.2978/2018

Mahalakshmi ... Petitioner/Wife of the detenu
vs.

- 1.The Secretary to the Government
Home, Prohibition and Excise Department
Secretariat, Chennai 600 009.
- 2.The Superintendent of Police,
O/o the Superintendent of Police,
Salem District.
- 3.The District Magistrate & District Collector,
O/o The District collector,
Salem District. ... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of habeas corpus calling for the records of the detention order made in Detention Order dated 11.12.2018 in C.M.P.No.46/GOONDA/C2/2018 passed by the 3rd Respondent herein and set aside the same and direct the respondents to produce the detenu Thiru.Ramasamy @ Patti Ramasamy, S/o.Vellaiyan, aged about 55 years, before this Court now confined at Central Prison, Salem, set him at liberty forthwith.

For Petitioner... Mr.S.Vellidoss for
Mr.R.Sudhakar

For Respondents.. Mr.C.Iyyappa Raj, APP

ORDER

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

The petitioner is the wife of the detenu, Thiru.Ramasamy @ Patti Ramasamy, S/o.Vellaiyan, aged about 55 years herein, and challenging the legality of the impugned order of detention dated 11.12.2018 passed by the 2nd respondent, in and by which, the detenu has been branded as a 'GOONDA' under the

provisions of section 3[1] of the Tamil Nadu Prevention of dangerous activities of Boot leggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Slum-grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14/1982), came forward to file the present habeas corpus petition.

2 As per the Grounds of Detention dated 11.12.2018 passed by the 2nd respondent herein, the detenu came to the adverse notice in the following cases:-

i) Adverse cases:

Sl No .	Name of the Police station and Crime No.	Section of law
1	Omalur PS Cr.No.179/2018	380 IPC
2	Tholasampatty PS.Cr.No.132/2018	392 IPC
3	Tholasampatty PS.Cr.No.187/2018	379 IPC
4	Tharamangalam PS Cr.No.507/2018	392 IPC

3 It is further averred in the Grounds of Detention that on 14.10.2018 at 11.30 hours, the defacto complainant, viz., Tmt.Vellayammal, wife of Dhasagounder, a resident of Chikkampatti, Village, Omalur Taluk, Salem District, has lodged a complaint on the file of the Tharamangalam Police Station, stating among other things that she was standing near Tharamangalam Post Office Bus Stop to visit the doctor and at about 10.30 hours, a person came in a motorcycle and brandished a knife and asked her to remove the gold chain and also threatened her with dire consequences if she asks for help and snatched away the gold chain weighing 2 1/2 sovereigns worth about Rs.25,000/- and when she raised alarm, public gathered and they were also threatened with dire consequences and taking advantage of the situation, he fled away from the scene of crime. The Inspector of Police attached to Tharamangalam Police Station has registered a case in crime No.598/2018 for the commission of the offences u/s.392 read with 397 and 506[iii] IPC [ground case] and took up the case of investigation. The Inspector of Police effected the arrest of the detenu on 14.10.2018 at about 16.00 hours and the detenu voluntarily came forward to give a confession statement which was recorded in the presence of witnesses and in pursuant to the admissible portion of the same, incriminating articles were recovered. The detenu was produced before the Court of Judicial Magistrate, Omalur, on the same day and was ordered to be remanded to judicial custody till 26.10.2018 and his remand period was further extended till

21.12.2018. The Detaining Authority on a perusal and consideration of the materials has derived the subjective satisfaction that the activities of the detenu are prejudicial to the maintenance of public order and peace and as such, branded him as a ''Goonda'' and detained him under the provisions of the Tamil Nadu Act 14 of 1982, by clamping the impugned order of detention and challenging the legality of the same, the present petition is filed.

4 The learned counsel for the petitioner would submit that admittedly, the detenu is in remand in connection with all the four adverse cases as well as in the ground case and in paragraph No.4 of the Grounds of Detention, the Detaining Authority, while deriving the subjective satisfaction as to the real and imminent possibility of the detenu coming out on bail and indulging in activities which are prejudicial to the maintenance of public peace and order, has placed reliance upon the arrest, custody and detention of the detenu only in respect of the ground case and as such, the subjective satisfaction derived by the Detaining Authority in that regard is vitiated and therefore, prays for quashment of the impugned order of detention.

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

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

7 As rightly pointed out by the learned counsel for the petitioner, the detenu is in custody in all the four adverse cases as well as in the ground case and however, in paragraph No.4 of the Grounds of Detention, the Detaining Authority has referred to the arrest and detention of the detenu only in respect of the ground case and failed to advert to his arrest, custody and detention in connection with the adverse cases numbering 4 and as such, the subjective satisfaction as to the real and imminent possibility of the detenu coming out on bail and indulging in activities which are prejudicial to the maintenance of public order and peace, is wholly vitiated and hence, on this sole ground, the detention order, impugned herein, is liable to be set aside.

8 In the result, the Habeas Corpus Petition is allowed and the detention order passed by the 2nd respondent dated 11.12.2018 is hereby set aside. The detenu who is now confined

in the Central Prison, Salem, 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 IV)

//True Copy//

Sub Assistant Registrar

AP

To

- 1.The Secretary to the Government
Home, Prohibition and Excise Department
Secretariat, Chennai 600 009.
- 2.The Superintendent of Police,
O/o the Superintendent of Police,
Salem District.
- 3.The District Magistrate & District Collector,
O/o The District collector,
Salem District.
- 4.The Public Prosecutor,
Madras High Court, Madras.
- 5.The Superintendent
Central Prison, Salem.
- 6.The Joint Secretary to Government,
Public(Law & Order),
Fort Saint George, Chennai - 9.

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