



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 03.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
and
THE HONOURABLE MR.JUSTICE B.PUGALENDHI

H.C.P(MD)Nos.75, 80 & 88 of 2019

Mani @ Saravanan @ Kadukkan

... Petitioner in H.C.P.(MD) No.75/2019

Kadalmani @ Kadarkarai ... Petitioner in H.C.P.(MD) No.80/2019

Shunmugarajan ... Petitioner in H.C.P.(MD) No.88/2019

Vs.

1.State of Tamil Nadu,

Rep. by the Principal Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George, Chennai - 600 009.

2.The District Collector and District Magistrate,
Tirunelveli District, Tirunelveli.

3.The Superintendent of Prison,
Central Prison, Palayamkottai,
Tirunelveli.

... Respondents in all petitions

Common Prayer: Habeas Corpus Petitions filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Habeas Corpus, calling for the entire records, connected with the detention orders of the Respondent No.2 in M.H.S.Confdl Nos.09, 07 & 08/2019, respectively, dated 05.01.2019 and quash the same and direct the Respondents to produce the body or person of the detenus by name Mani @ Saravanan @ Kadukkan, S/o.Madasamy Asari, aged about 24 years; Kadalmani @ Kadarkarai, S/o.Arunachalam Nadar, aged about 42 years; and Shunmugarajan, S/o.Sudalaimadan, aged about 29 years, respectively, now detained at Central Prison, Palayamkottai, before this Hon'ble Court and set them at liberty forthwith.

For Petitioner in all
petitions

: Mr.N.Pragalathan

For Respondents in all
petitions

: Mr.K.Dinesh Babu
Additional Public Prosecutor

**COMMON ORDER**

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

Since the ground case as well as adverse case based on which the impugned orders of detention came to be passed are one and the grounds for quashment of the detention orders are also one and the same, all the three Habeas Corpus Petitions are taken up and disposed of by this common order.

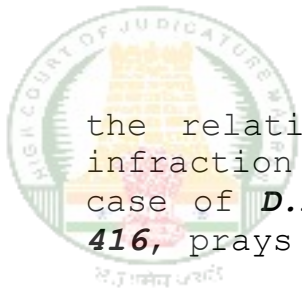
2. The detainees are the petitioners and challenging the orders of detention dated 05.01.2019, passed by the second respondent, in and by which, the detainees have been branded as Goondas under the provisions of section 3[1] of the Tamil Nadu Prevention of dangerous activities of Boot leggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Slum grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14/1982), the present petitions are filed.

3. A perusal of the grounds of detention dated 05.01.2019 would disclose that the detainees came to adverse notice in the following cases:

Sl. No.	Name of the Police Station and Crime No.	Sections of Law
1	Pavoorchatram Police Station, Crime No.525 of 2018.	341, 294(b), 323, 506(i) IPC
2	Pavoorchatram Police Station, Crime No.577 of 2018.	379 IPC

It is further alleged that the detainees have also involved in the commission of offence under Sections 294(b), 387 & 506(ii) IPC, which is said to have taken place on 12.12.2018, at about 08.30 hours and based on the complaint given by the defacto complainant, namely, Sam Daniel Raj, Pavoorchatram Police Station registered a case in Crime No.624 of 2018 and all the detainees were arrested on 12.12.2018 and were produced before the Judicial Magistrate, Tenkasi and they were remanded to judicial custody till 10.01.2019. The Detaining Authority, on a perusal and consideration of the materials, has derived the subjective satisfaction that the activities of the detainees were prejudicial to the maintenance of the public peace and order and as such, branded them as Goondas and detained them under the provisions of the Tamil Nadu Act 14 of 1982, by clamping the impugned orders of detention and challenging the legality of the same, the present Habeas Corpus Petitions are filed.

4. The learned counsel for the petitioners has drawn the attention of this Court to the grounds of detention as well as page no.81 of the booklet and would submit that the detainees were arrested in the ground case and subsequently, were arrested in respect of the second adverse case also and insofar as the arrest intimation in respect of the second adverse case is concerned, it was given only to the jail officials and not to the relatives, despite the fact that in respect of the arrest in the ground case,



the relatives of the detainees were informed and since it is an infraction of the judgment rendered by the Hon'ble Apex Court in the case of **D.K.Basu v. State of West Bengal**, reported in **(1997) 1 SCC 416**, prays for quashment of the impugned orders of detention.

5. Per contra, Mr.K.Dinesh Babu, learned Additional Public Prosecutor appearing for the State, would submit that the relatives of the detainees were very well aware of the arrest and incarceration of the detainees in connection with the second adverse case also and as such, the detainees have not been prejudiced and would further submit that the Detaining Authority, on careful consideration of the entire materials, has rightly clamped the orders of detention and prays for dismissal of these petitions.

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

7. Admittedly, the detainees were arrested in connection with the ground case and subsequently, they were formally arrested in the second adverse case. Insofar as the arrest of the detainees in respect of the ground case is concerned, the arrest intimation was given to the relatives and curiously, in respect of their arrest and incarceration insofar as the second adverse case is concerned, only jail officials alone were informed. Though it was open to the Sponsoring Authority to give the arrest intimation to the relatives of the detainee, as done in the ground case, it was not done in respect of the second adverse case. The said act of the Sponsoring Authority is in contravention of the dictum laid down by the Hon'ble Apex Court in the case of **D.K.Basu v. State of West Bengal**, reported in **(1997) 1 SCC 416** and the said infraction would definitely vitiate the subjective satisfaction derived by the Detaining Authority and as such, the impugned orders of detention are liable to be set aside.

8. Accordingly, the Habeas Corpus Petitions are allowed by setting aside the orders of detention passed by the second respondent herein, namely, The District Collector and District Magistrate, Tirunelveli District, Tirunelveli, in M.H.S.Confdl Nos.09, 07 & 08/2019, respectively, dated 05.01.2019. Consequently, the detenus, namely, Mani @ Saravanan @ Kadukkan, S/o.Madasamy Asari, aged about 24 years; Kadalmani @ Kadarkarai, S/o.Arunachalam Nadar, aged about 42 years; and Shunmugarajan, S/o.Sudalaimadan, aged about 29 years, who are now detained at Central Prison, Palayamkottai, are directed to be released forthwith unless their presence [or] custody [or] detention is required in connection with any other cases/proceedings.

Sd/-

Assistant Registrar (CO)

/ True Copy /



To

1. The Principal Secretary to Government,
State of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai - 600 009.
2. The District Collector and District Magistrate,
Tirunelveli District,
Tirunelveli.
3. The Superintendent of Prison,
Central Prison,
Palayamkottai,
Tirunelveli.
4. The Joint Secretary to Government,
Public (Law & Order) Department,
Fort. St. George, Chennai -9.
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

H.C.P(MD) Nos. 75, 80 & 88 of 2019
03.07.2019

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