



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) No. 1802 of 2018

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Petitioner

Vs.

1. The Principal Secretary to Government,
State of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai - 600 009.

2. The Commissioner of Police,
Office of the Commissioner of Police,
Tiruchirappalli City,
Tiruchirappalli.

3. The Superintendent of Prison,
Borstal School and District Jail,
Pudhukottai District.

... Respondents

Prayer: Habeas Corpus Petition 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 order of the Respondent No. 2 in C.No.48/Detention/C.P.O/T.C/2018 dated 30.11.2018 and quash the same and direct the Respondents to produce the body or person of the detenu by name Pandi @ Veeramuthu S/o. Venkatesan, aged about 24 years, now detained in Borstal School and District Jail, Pudhukottai District before this Hon'ble Court and set him at liberty forthwith.

For Petitioner

: Mr. R. Alagumani

For Respondents

: Mr. K. Dinesh Babu
Additional Public Prosecutor

O R D E R

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

The petitioner is the mother of the detenu and challenging the legality of the impugned order of detention dated 30.11.2018 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, 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), she came forward to file the present habeas corpus petition.

2. A perusal of the Grounds of Detention dated 30.11.2018, passed by the 2nd respondent herein, would disclose among other things that the detenu, viz., Pandi @ Veeramuthu came to the adverse notice in the following two cases:-

Sl. No.	Name of the Police Station and Crime No.	Section of Law
1.	Tiruchy City, Palakkarai Police Station Cr.No.515 of 2016	294(b), 324 and 506(ii) IPC.
2.	Tiruchy City, Palakkarai Police Station Cr.No.30 of 2018	294(b), 323, 324, 307 and 506(ii) IPC.

It is further stated in the grounds of detention that the defacto complainant viz., Chelladurai, a resident of Asari Street, Mudaliarchathiram, Palakkarai, Tiruchirappalli in his complaint has stated that on 09.10.2018 at 21.30 hours, the detenu Pandi @ Veeramuthu and his associates having lethal weapons in their hands, intercepted an auto bearing registration No.TN 81 6341 and cut his brother Chandru indiscriminately and his brother succumbed to the injuries on the spot. The Palakkarai Police, based on the complaint given by the defacto complainant registered a case in Cr.No.634 of 2018, for the commission of offences under Sections 147, 148, 341, 294(b), 307 and 302 I.P.C. (ground case) The detenu was arrested on 12.10.2018 and subsequently, he was produced before the Court of Judicial Magistrate No.V, Tiruchirappalli and ordered to be remanded to judicial custody till 23.10.2018 and the period of remand has been extended. The Detaining Authority on being satisfied that the activities of the detenu were prejudicial to the maintenance of the public order, 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 Habeas Corpus Petition is filed.

3.The learned counsel appearing on behalf of the detenu has drawn the attention of this Court to pages 14, 49, 196 and 197 of the booklet and would submit that the vernacular version of the document pertains to adverse case and the Government Order has not been furnished and despite representation has been made, it has been rejected by a cryptic order and hence, prays for quashment of the impugned order.

<https://hcservices.ecourts.gov.in/hcservices/>

4.Per contra, Mr.K.Dinesh Babu, learned Additional Public



Prosecutor appearing for the State by drawing the attention of this Court to the counter affidavit of the second respondent would submit that admittedly the petitioner's representation did not specifically mention the documents/pages for which vernacular versions are not available and would further add that the 2nd respondent/Detaining Authority, after due and proper application of mind, has rightly clamped the order of detention and hence, prays for dismissal of this petition.

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

6. The petitioner on behalf of the detenu has submitted a post detention representation dated 09.12.2018 and in paragraph 5, she has made a specific averment stating that many of the pages/documents are in English and prayed for translated copies of pages/documents. It is the stand of the second respondent in paragraph 12 that in the absence of the specific page/document, specific reply cannot be given. Once a stand has been taken by the detaining authority as to the lack of knowledge as to pages/documents, for which translated copies in vernacular language has been sought for, they should have sought for clarification either from the sponsoring authority or from the petitioner herself, who has submitted the representation and admittedly it was not done. It is obligatory on the part of the detaining authority to furnish the same. In the absence of the same, the valuable right guaranteed under Article 22(5) of the Constitution of India to submit representation for revoking the order of detention is violated and hence on the sole ground, the impugned order warrants interference.

7. In the result, the Habeas Corpus Petition is allowed by setting aside the Order of Detention passed by the second respondent herein, namely, the Commissioner of Police, Tiruchirappalli City in C.No.48/Detention/C.P.O./T.C/ 2018 dated 30.11.2018. Consequently, the detenu, namely, Pandi @ Veeramuthu, son of Venkatesan, aged about 24 years, who is now detained at Borstal School and District Jail, Pudhukottai District 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-II)

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Sub Assistant Registrar (CS)



To

1.The Principal Secretary to Government,
State of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai - 600 009.

2.The Commissioner of Police,
Office of the Commissioner of Police,
Tiruchirappalli City,
Tiruchirappalli.

3.The Superintendent of Prison,
Borstal School and District Jail,
Pudhukottai District.

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

SJ

H.C.P (MD) No.1802 of 2018
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