



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.04.2019

CORAM:

THE HONOURABLE MR. JUSTICE P.N.PRAKASH

AND

THE HONOURABLE MR. JUSTICE B.PUGALENDHI

H.C.P. (MD) No.1813 of 2018

S.Vijaya

: Petitioner

Vs.

- 1.State of Tamil Nadu,
The Secretary to Government
Home, Prohibition and Excise Department,
Fort St. George, Chennai-9.
- 2.The District Collector and District Magistrate
Office of the District Collector and District Magistrate
Pudukottai District
Pudukottai.
- 3.The Superintendent
Central Prison,
Tiruchirappalli.

: Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Habeas Corpus, to call for the entire records, in detention order passed in P.D.O.No.34/2018 dated 08.12.2018 on the file of the 2nd respondent herein and set aside the same as illegal and direct the respondents to produce the body or person of the petitioner's husband namely, Saravanan, S/o.Arunachalam, male, aged about 39 years, who is detained in Central Prison, Tiruchirappalli, before this Court and set him at liberty.

For Petitioner

: Mr.G.Ramanathan

For Respondents

: Mr.M.Chandrasekaran

Additional Public Prosecutor

ORDER

B. PUGALENDHI, J

The petitioner is the wife of the detenu viz., Saravanan, S/o.Arunachalam, aged about 39 years. The detenu has been detained, as per the order of the second respondent, dated 08.12.2018, under Section 2(b) of the Tamil Nadu Act 14 of 1982, branding him as "BOOTLEGGER". Challenging the same, the petititioner/detenu is before this Court in this Habeas Corpus Petition.

2.We have heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondents. We have



also perused the records carefully.

3. In the detention order dated 08.12.2018, it is stated as follows:

"....Report was requested from the Collector, Villupuram District and he has recommended and submitted a report that he is a deserving person for detention. Hence, on the basis of report submitted by the Collector, Villupuram District and on the basis of documents submitted before me, it has been ordered to detain Thiru.Saravanan, aged 39/2018, S/o.Arunachalam, No.13, Kurumpuram, Vinayagar Kovil Street, Alathur Post, Marakkanam Taluk, Villupuram District for the purpose of protecting life of general public."

4. Though a number of grounds have been raised assailing the order of detention, at the time of making submission, the learned counsel for the petitioner submitted that though the Detaining Authority has referred to the report of the District Collector, Villupuram in the detention order, the same was not at all furnished to the detenu. Therefore, non-furnishing of the report of the District Collector, Villupuram would vitiate the order of detention. Hence, on that ground, the detention order is liable to be set aside.

5. The submissions made by the learned Additional Public Prosecutor in reply to the above said contention raised by the learned counsel for the petitioner are also heard.

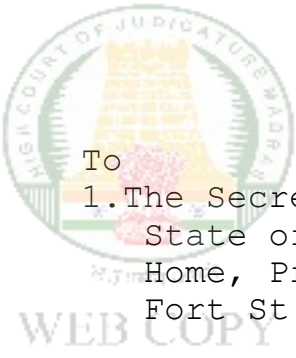
6. In our considered opinion, the Detaining Authority, while relying upon the report of the District Collector, Villupuram, for clamping the order of detention as against the detenu, ought to have furnished the said report, so as to enable the detenu, to make an effective representation. Therefore, in the absence of the said report, the detenu had been deprived of the benefit of making effective representation to the Government. The non furnishing the report would vitiate the order of detention. Therefore, on that score alone, the order of detention is liable to be set aside.

7. In the result, this Habeas Corpus Petition is allowed and the impugned Detention Order, passed by the second respondent, in his proceedings in P.D.O.No.34/2018 dated 08.12.2018 is quashed. The detenu, namely Saravanan, S/o.Arunachalam, aged about 39 years, is ordered to be set at liberty forthwith, if he is not required for detention in connection with any other case.

Sd/-

Assistant Registrar (Records)

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To

- 1.The Secretary to Government
State of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St. George, Chennai-9.
- 2.The District Collector and District Magistrate
Office of the District Collector and District Magistrate
Pudukottai District, Pudukottai.
- 3.The Superintendent
Central Prison,
Tiruchirappalli
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.G.Ramanathan, Advocate, SR.No.64506

Order made in
H.C.P. (MD) No.1813 of 2018
Dated: 30.04.2019

RR
KK/SAR/20.05.2019/ 3P- 6C