



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.06.2019

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

H.C.P (MD)No.1655 of 2018

Steaphen Raj @ Mottas

... Petitioner

Vs.

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

2.The District Magistrate and District Collector,
Office of the District Magistrate and
District Collector,
Dindigul District, Dindigul.

3.The Superintendent of Prision,
Madurai Central Prison,
Madurai.

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, to call for the entire records, connected with the detention order of the respondent No.2 in Detention Order No.99/2018, dated 11.11.2018 and quash the same and direct the respondents to produce the body or person of the detenu by name Steaphen Raj @ Mottas, son of Velankanni, aged about 26 years, now confining at Madurai Central Prison before this Court and set him at liberty forthwith.

For Petitioner : Mr.C.Ramesh
for Mr.R.Rajeshkumar

For Respondents : Mr.K.Dinesh Babu
Additional Public Prosecutor

* * * * *

**ORDER**

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

The detenu himself is the petitioner and challenging the impugned order of detention dated 11.11.2018, passed by the second respondent, under Section 3(1) of Dangerous Activities of Bootleggers, Drug-offenders, Forest-offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982) and branding him as 'Goonda' in Detention Order No.99/2018, he has filed the present Habeas Corpus Petition.

2. A perusal of the grounds of detention dated 11.11.2018 would disclose among other things that it came to be passed based upon a solitary incident. The grounds of detention reads that the defacto complainant viz., V. Nagalakshmi, a resident of Pillaiyarpalayam, Dindigul, in her complaint, has stated that one Murugesan borrowed certain amount with regard to the sale of vegetables and the husband of the defacto complainant settled the same and thereafter, he demanded interest from the said Murugesan for the belated payment of the said amount, but it was not paid.

3. It is further stated that the husband of the defacto complainant informed all the shop owners in Gandhi market not to give vegetable loads to the said Murugesan and aggrieved by the same, the said person engaged the services of the detenu and three others and hatched conspiracy to murder him and accordingly, executed the same on 02.10.2018 at 05.30 hours and the defacto complainant rushed to her husband and has seen that he had died.

4. The Dindigul Town Police Station, based on the complaint given by the defacto complainant, registered a case in Cr.No.881 of 2018, for the commission of offences under Sections 147, 148 and 302 I.P.C. The detenu was arrested on 03.10.2018 and subsequently, he was produced before the Court of Judicial Magistrate No.II, Dindigul and remanded to judicial custody on the same day and his remand period was extended till 14.11.2018.

5. The detaining authority on being satisfied with the materials placed by the sponsoring authority that the activities of the detenu are prejudicial to the maintenance of public order, clamped the order of detention and making a challenge to the same, the present Habeas Corpus Petition has been filed by the petitioner.

6. The learned Counsel appearing for the petitioner has drawn the attention to the vernacular version of the grounds of detention and would submit that in paragraph No.5 of the vernacular version of the grounds of detention, despite the fact that the pendency of the bail application in CrI.O.P.(MD)No.19638 of 2018 before this Court, it has been stated that as if the detenu would file another application for bail and would come out on bail and the same is not



proper and the same would exhibit the non-application of mind on the part of the detaining authority.

7. It is also submitted by the learned Counsel appearing for the petitioner that though the petitioner signed and acknowledged all the grounds of detention, he knows only Tamil and a representation to the concerned authorities for revoking the order of detention was also submitted only in vernacular version and therefore, prays for quashment of the order of detention.

8. Per contra, the learned Additional Public Prosecutor appearing for the State has drawn the attention of the Court to the counter affidavit filed by the second respondent and would submit that the detaining authority, on proper application of mind, has taken into consideration all the materials and the report submitted by the sponsoring authority, has passed the detention order and hence, prays of dismissal of the Habeas Corpus Petition.

9. This Court has considered the rival submissions and perused the materials placed before this Court.

10. As rightly pointed out by the learned Counsel appearing for the petitioner, a perusal of paragraph No.5 of the vernacular version of the grounds of detention would reveal among other things that despite the pendency of the application for bail filed by the detenu, it has been stated that as if the detenu would file another application for bail and would come out on bail and in the considered opinion of this Court, the same is improper. Further, the vernacular version of the grounds of detention had deprived the detenu from making an effective representation for revoking the order of detention and that would also exhibit the non-application of mind on the part of the detaining authority, while taking into consideration the vernacular version of the grounds of detention.

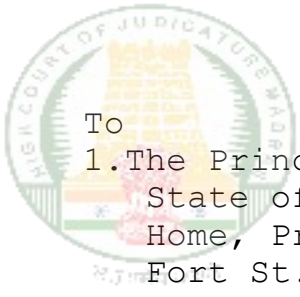
11. In the result, this Habeas Corpus Petition is allowed and the detention order No.99/2018, dated 11.11.2018, passed by the second respondent, is quashed and the detenu namely Steaphen Raj @ Mottas, son of Velankanni is directed to be set at liberty forthwith, unless his remand/detention is required, in accordance with law, in connection with any other case/proceedings.

Sd/-

Assistant Registrar

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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 District Magistrate and District Collector,
Office of the District Magistrate and
District Collector,
Dindigul District, Dindigul.

3. The Superintendent of Prison,
Madurai Central Prison,
Madurai.

4. The Joint Secretary to Government,
Public (Law and Order),
Fort Saint George,
Chennai.

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

H.C.P(MD) No.1655 of 2018
03.06.2019

CS: (14/06/2019) 4P 6C