

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED : 03.06.2019

CORAM

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN**AND****THE HONOURABLE MR. JUSTICE B. PUGALENDHI****H.C.P (MD) No. 1666 of 2018**

Alexraj

... 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 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 District.

... 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.98/2018, dated 11.11.2018 and quash the same and direct the respondents to produce the body or person of the detenu by name Alexraj, son of Amalraj, aged about 23 years, now confining at Madurai Central Prison before this Court and set him at liberty forthwith.

For Petitioner : Mr.R.Alagumani

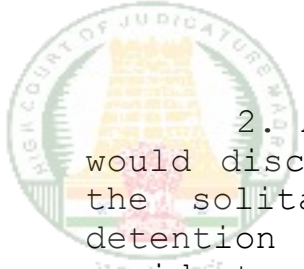
For Respondents : Mr.K.Dinesh Babu

Additional Public Prosecutor

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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.98/2018, has filed the present Habeas Corpus Petition.



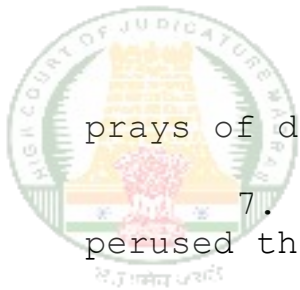
2. A perusal of grounds of detention order dated 11.11.2018 would disclose that the order of detention came to be passed on the solitary case. It is further stated in the grounds of detention that the defacto complainant viz., R.Arulsamy, a resident of Muthalagupatty, Dindigul, would state that due to earlier murder of one Ayyamperumal by his brother Baskar, there was animosity between the family of Baskar and Masanam. The defacto complainant, on becoming aware of the fact that the life of Baskar is under threat, arranged to send him to Madurai and went along with him to bus stop and at about 15.00 hrs on 17.09.2018, while they were walking in a mud road, the known persons along with others came by two wheelers, intercepted and quarrelled with them and started to attack Baskar indiscriminately and as a consequence, he died on the spot. Based on the complaint given by the defacto complainant, the Sub-Inspector of Police, Dindigul Taluk Police Station registered a case in Cr.No.625 of 2018 for the commission of offences under Sections 147, 148, 341, 294(b), 302 and 506(ii) I.P.C.

3. The detenu has surrendered before the Court of Judicial Magistrate, Oddanchatram and was remanded to judicial custody and subsequently police custody was taken and afterwards he was once again produced before the Court and he was remanded to judicial custody and his remand period of was extended upto 12.11.2018.

4. 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.

5. The learned Counsel appearing for the petitioner would submit that admittedly, the order of detention came to be passed based on the solitary case and in paragraph No.4 of the grounds of detention, it has been stated that the detenu has committed crimes continuously and also acted in a manner prejudicial to the maintenance of public order and for recording the fact that the detenu committed crimes continuously, no material whatsoever is placed by the sponsoring authority before the detaining authority and in the absence of the same, the subjective satisfaction arrived at by the detaining authority is vitiated and hence, prays for quashment of the impugned order of detention.

6. Per contra, the learned Additional Public Prosecutor 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.

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

8. As rightly pointed out by the learned Counsel appearing for the petitioner, in paragraph No.4 of the grounds of detention, the detaining authority has stated that the detenu has committed crimes continuously and for making such averment, no material whatsoever is placed by the sponsoring authority before the detaining authority. In the absence of the same, the subjective satisfaction arrived at by the detaining authority is wholly vitiated and therefore, on that ground, the impugned order of detention warrants interference.

9. In the result, this Habeas Corpus Petition is allowed and the order of detention in detention order No.98/2018 dated 11.11.2018 passed by the second respondent, is quashed and the detenu namely Alexraj, S/o Amalraj 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

// True Copy //

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 District.
- 4.The Joint Secretary to Govt.Public(L and Order)
Fort Saint George, Chennai-9
- 5.The Additional Pnublic Prosecutor,
Madurai Bench of Madras Hich Court, Madurai



+1CC TO M/S.Dr.R. Alagumani, Advocate, Sr.No.66952

H.C.P (MD) No.1666 of 2018
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