



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.10.2019

CORAM:

THE HONOURABLE MR. JUSTICE S. VAIDYANATHAN

AND

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

H.C.P. (MD) No. 1135 of 2019

Seethalakshmi

: Petitioner

Vs.

1. The Additional Principal Secretary to Government,
State of Tamil Nadu,
Home, Prohibition and Excise Department, (XVI)
Fort St. George, Chennai-9.

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

3. The Superintendent of Central Prison,
Trichy Central Prison,
Trichy District.

: 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 connected with the detention order of the respondent No.2 in P.D.O.No.59/2019 dated 20.09.2019 and quash the same and direct the respondents to produce the body or person of the detenu by name Chandrasekar @ Appar son of Posangu aged about 35 years, now detained as Goonda in Trichy Central Prison, before this Court and set him at liberty forthwith.

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

ORDER

S. VAIDYANATHAN, J.

AND

N. ANAND VENKATESH, J.

Challenge is made to the order of detention passed by the second respondent vide proceedings in Detention Order in P.D.O.No.59/2019 dated 20.09.2019, whereby the detenu was ordered to be detained under the provisions of the Tamil Nadu Act 14 of 1982, branding him as a "Goonda".



2. This Court passed the following order on 25.10.2019:

"It is submitted by the learned counsel for the petitioner that the impugned order of detention passed under Act 14 of 1982 is erroneous on the face of it, as the detenu's name has been wrongly mentioned. The name, which has been mentioned is the brother of the detenu, who has also been detained under Act 14.

Mr.K.Dinesh Babu, learned Additional Public Prosecutor accepts notice on behalf of the respondents.

List on 31.10.2019."

3. Heard the learned counsel appearing on behalf of the petitioner and the learned Additional Public Prosecutor appearing on behalf of the respondents.

4. It is seen from the records that the name of the detenu is Chandrasekar @ Appar. His brother Rajaram @ Raja was also detained under Act 14 of 1982 by a separate order passed by the second respondent in P.D.O.No.61/2019. The detention order that was passed for Rajaram @ Raja in P.D.O.No.59/2019 has been virtually copied and pasted in the detention order that was passed against the detenu Chandrasekar. Therefore, in the entire records, it is only the name of Rajaram @ Raja, which is found as the detenu and there is nowhere any reference to the name of Chandrasekar.

5. This clearly shows that as per the records, the detenu has been detained in P.D.O.No.59/2019 without even showing his name in the detention order. This is an apparent illegality, which makes the detention order on the face of it illegal. Continuing the detention of the detenu based on this illegal detention order will squarely go against the fundamental right that has been guaranteed under Article 21 of the Constitution of India. Therefore, the order of detention is liable to be interfered with.

6. 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.No.59/2019 dated 20.09.2019 is quashed. The detenu, namely Chandrasekar @ Appar, S/o.Posangu, male aged 35 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(CO)

// True Copy //

Sub Assistant Registrar(CS)

RR



To

1. The Additional Principal Secretary to Government,
State of Tamil Nadu,
Home, Prohibition and Excise Department, (XVI)
Fort St. George, Chennai-9.

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

3. The Superintendent of Central Prison,
Trichy Central Prison,
Trichy District.

4. The Joint Secretary to Government,
Public (Law & order),
Fort St. George, Chennai - 9.

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

+1CC TO MR.K.BAALASUNDHARAM, Advocate Sr. No. 95657

Order made in
H.C.P. (MD) No. 1135 of 2019
Dated: 31.10.2019

KMK (CO)
TR (12.11.2019) 3P 7C