

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.07.2020

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
AND
THE HONOURABLE MS.JUSTICE V.M.VELUMANI

H.C.P.No.190 of 2020

S. Ezhumalai

...
Petitioner

vs

1. The Secretary to Government,
Government of India,
Ministry of Home Affairs (Department of internal security),
North Block,
New Delhi.
2. The Additional Secretary to Government (Home),
Government of Puducherry,
Chief Secretariat,
Gubert Avenue,
Pondicherry.
3. The District Magistrate-Cum-Authorized Officer,
No. 3rd Floor, Vazhudhavor Road,
Kavundanpalayam,
Pondicherry.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Habeas Corpus, calling for the Third Respondent vide order No. 12/DM/RO/D2/PPASAA/2019 dated 31.10.2019 and quash the same and produce the petitioner's son Udi @ Udayakumar S/o Ezhumalai, aged about 32 years now detained in Central Prison, Kalapet, Puducherry under the Puducherry Prevention of Anti Social Activities Act, 2008, before this Court and set him at liberty and quash the same.

For Petitioner : Mr. Prakash Adiapadam

For Respondents: Mr. S.S. Pajaniradja for R1
Central Government Standing Counsel

Mr. Bharatha Chakkravarthy for R2 & R3
Public Prosecutor (Puducherry)

O R D E R
(Order of the court was made by N.KIRUBAKARAN.J.,)

The matter was heard through "Video Conferencing".

2.The Petitioner has challenged the detention order No.12/DM/RO/D2/ PPASAA/2019 dated 31.10.2019 passed against his son by the third Respondent as he has got 3 adverse cases apart from 1 ground case registered against him.

3.Heard Mr.Prakash Adiapadam, learned counsel for the Petitioner, Mr.S.S.Pajaniradja, learned Central Government Standing Counsel for the First Respondent and Mr.Bharatha Chakkravarthy, learned Public Prosecutor (Puducherry) for the Second and Third Respondents.

4.Mr.Prakash Adiapadam, learned counsel for the Petitioner would submit that one adverse case in Cr.No.24/2013 which is stated to be pending against the detenu has been acquitted as early as on 20.04.2015 in SC.No.190 of 2013 by the Competent Court. Therefore, there is non-application of mind in passing the detention order.

5.Though the learned Public Prosecutor (Puducherry) would oppose the Petition, he cannot deny the fact that the detenu has already been acquitted in SC.No.190 of 2013 on 20.04.2015.

6.The above said fact has not been taken into consideration while passing the detention order and only adverse case registered against him has been taken into consideration, which would show the lack of application of mind on the part of the detaining authority. Therefore, the same vitiates the detention order and this Petition has to be necessarily allowed.

5.Accordingly, the detention order passed by the Third Respondent in Order No.12/DM/RO/D2/PPASAA/2019 dated 31.10.2019 is quashed and the Habeas Corpus Petition is allowed. The detenu viz., Udi @ Udayakumar S/o Ezhumalai, aged about 32 years, who is now confined at Central Prison, Kalapet, Puducherry, is directed to be set at liberty forthwith unless his presence is required in connection with any other case.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

1. The Secretary to Government,
Government of India,
Ministry of Home Affairs (Department of internal security),
North Block,
New Delhi.
2. The Additional Secretary to Government (Home),
Government of Puducherry,
Chief Secretariat,
Gubert Avenue,
Pondicherry.
3. The District Magistrate-Cum-Authorized Officer,
No. 3rd Floor, Vazhudhavor Road,
Kavundanpalayam,
Pondicherry.
4. The Superintendent of Prison,
Central Prison,
Kalapet,
Puducherry.
5. The Public Prosecutor,
High Court of Madras,
Chennai.

H.C.P.No.190 of 2020

LN(CO)
SP(30/07/2020)

सत्यमेव जयते

WEB COPY