

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:06.10.2020

Coram

The Hon'ble Mr. Justice M.M.SUNDRESH
and
The Hon'ble Mr. Justice D.KRISHNAKUMAR

H.C.P.No.676 of 2020

Kanageswari

... Petitioner

vs.

1. State of Tamil Nadu,
rep.by its Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George,
Chennai.
2. Office of the District Magistrate and
District Collector,
Thiruppur District,
Tiruppur.
3. The Superintendent of Police,
Thiruppur District,
Tiruppur.
4. The Superintendent of Prison,
Central Prison-II,
Puzhal, Chennai.
5. The Inspector of Police,
Avinashi Police Station,
Tiruppur District

... Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus calling for the records pertaining to the detenu Mr.Subash @ Udhayagopal Raja, S/o.Chinnathambi, who is detained under Tamil Nadu Act 14 of 1982 as GOONDA at Central Prison, Puzhal, Chennai, by the second respondent herein vide his order in Cr.M.P.No.02/Goonda/2020, dated 07.02.2020, on the file of the second respondent herein and to quash the same and direct the respondents herein to produce the body of the detenu Mr.Subash @ Udhayagopal Raja,

S/o.Chinnathambi, aged about 35 years, before this Court and set him at liberty.

For Petitioner : Mr.P.Thinesh

For Respondents : Mr.R.Prathap Kumar,
Addl. Public Prosecutor

ORDER

[Order of the Court was made by M.M.SUNDRESH, J.]

The petitioner is the wife of Subash @ Udhaya Gopal Raja, S/o.Chinnathambi, aged about 35 years, who is the detenu. The detenu has been detained by the second respondent by his order in Cr.M.P.No.02/Goonda/2020, dated 07.02.2020, holding him to be a "GOONDA", as contemplated under Section 2(f) of Tamil Nadu Act 14 of 1982. The said order is under challenge in this Habeas Corpus Petition.

2. We have heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondents and we have also perused the records carefully.

3.Though learned counsel for the petitioner has raised several other grounds to assail the order of detention, he has mainly focused his argument on the ground that the detaining authority, while detaining the detenu, has not furnished the legible copies of the documents relied on by him. This deprived the detenu from making effective representation. Therefore, on this sole ground, the detention order is liable to be quashed.

4.On consideration of the submissions made on either side and upon perusal of the documents available on record, especially the seizure mahazar pertaining to the second adverse case at Page No.36 of the booklet, it is clear that the detaining authority, by providing illegible copies of the documents, has taken away the rights of detenu to effectively defend himself against his detention. Thus the impugned detention order is liable to be set aside on this ground.

5. In the result, the Habeas Corpus Petition is allowed and the order of detention Cr.M.P.No.02/Goonda/2020, dated 07.02.2020 passed by the second respondent is set aside. The

detenu, namely, Subash @ Udhaya Gopal Raja, S/o.Chinnathambi, aged about 35 years is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

mmi/ssm
To

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George, Chennai.
- 2.Office of the District Magistrate and
District Collector, Tiruppur District, Tiruppur.
- 3.The Superintendent of Police,
Thiruppur District,Tiruppur.
- 4.The Superintendent of Prison,
Central Prison-II, Puzhal, Chennai.
- 5.The Inspector of Police,
Avinashi Police Station,Tiruppur District
- 6.The Public Prosecutor,
High Court, Madras.

H.C.P. No.676 of 2020

VSNI (CO)
RMP (29/10/2020)

सत्यमेव जयते

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