

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.12.2020

Coram

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

H.C.P. No. 1751 of 2020

Ellammal

...Petitioner/Wife of the Detenue

-vs-

1. Government of Tamil Nadu
rep. by its Secretary,
Home, Prohibition and Excise Department
Secretariat, Chennai 600 009.
2. The District Collector and District Magistrate,
Thiruvannamalai District.
3. The Superintendent of Police,
Thiruvannamalai District.
4. The Superintendent of Prison,
Central Prison, Vellore.
5. The Inspector of Police
Kalasapakkam Police Station,
Thiruvannamalai District.
Crime No.61/20

...Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of habeas corpus calling for the records in D.No.17/2020-C2 dated 10.03.2020 on the file of the second respondent and quash the same and direct the respondents herein to produce the petitioner's husband Kedar @ Subramani, aged 55 years, S/o.Puthuran, who is now confined in Central Prison, Vellore before this Court and set him at liberty.

For Petitioner : Mr.S.Silambu Selvan

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 Kedar @ Subramani, aged 55 years, S/o.Puthuran, who is the detenu. The detenu has been detained by the second respondent in connection with order in D.No.17/2020-C2 dated 10.03.2020, holding him to be a "Bootlegger", as contemplated under Section 2(b) 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 Form 91 pertaining to the similar case at Page No.87 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 in D.No.17/2020-C2 dated 10.03.2020 passed by the second respondent is set aside. The detenu,

namely, Kedar @ Subramani, aged 55 years, S/o.Puthuran, 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
Secretariat, Chennai 600 009.
2. The District Collector and District Magistrate,
Thiruvannamalai District.
3. The Superintendent of Police,
Thiruvannamalai District.
4. The Superintendent of Prison,
Central Prison, Vellore.
5. The Inspector of Police
Kalasapakkam Police Station,
Thiruvannamalai District.
6. The Public Prosecutor,
High Court, Madras.

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CO(RV)
BDL/18/01/2021

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