

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.10.2020

CORAM

THE HON'BLE MR. JUSTICE M.M.SUNDRESH
AND
THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

H.C.P. NO. 871 OF 2020

Selvaraj

...Petitioner

-vs-

1. The State of Tamil Nadu
rep. by the Secretary to Government
Home, Prohibition and Excise Department
Secretariat, Chennai 600 009.
2. The District Magistrate and
District Collector,
Office of the District Collector,
Tiruppur District.
3. The Superintendent of Police,
O/o.Superintendent of Police,
Tiruppur District.
4. The Superintendent,
Central Prison, Coimbatore District.
5. The Inspector of Police,
All Women Police Station,
Kangayam, Tiruppur District.

...Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of habeas corpus calling the respondents to produce the records of second respondent's detention order Cr.M.P.No.03/Sexual Offender/2020 dated 20.02.2020 and produce the petitioner's son S.Velmurugan, S/o.Selvaraj, aged about 23 years, now detained in Central Prison, Coimbatore, The Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Slum Grabbers and Video Pirates Act, 1982, before this Court and set him at liberty.

For Petitioner : Mr.P.Saravanan

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 father of S.Velmurugan, S/o.Selvaraj, aged about 23 years, who is the detenu. The detenu has been detained by the second respondent in connection with the order in Cr.M.P.No.03/Sexual Offender/2020 dated 20.02.2020, holding him to be a "Sexual Offender", as contemplated under Section 2 (ggg) 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 161 statement at Page No.291 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 Cr.M.P.No.03/Sexual Offender/2020 dated 20.02.2020 passed by the second respondent is set aside. The detenu, namely, S.Velmurugan, S/o.Selvaraj, aged about 23

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
Secretariat, Chennai 600 009.
2. The District Magistrate and District Collector,
Office of the District Collector,
Tiruppur District.
3. The Superintendent of Police,
O/o. Superintendent of Police,
Tiruppur District.
4. The Superintendent, Central Prison,
Coimbatore District.
5. The Inspector of Police,
All Women Police Station, Kangeyam, Tiruppur District.
6. The Joint Secretary to Government,
Public Law and Order,
Secretariat, Chennai - 9
7. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.Saravanan, Advocate, SR.No.34581

H.C.P. No. 871 of 2020

MG(CO)
KKV/22/10/2020