

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.12.2020

CORAM

THE HON'BLE MR.JUSTICE M.M.SUNDRESH

AND

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

H.C.P.No.1028 of 2020

K.Ambika ... Petitioner

Vs

1.The State Rep. by ... Respondents

Rep. by The Additional Chief
Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai-600 009.

2.The Commissioner of Police,
Greater Chennai, Vepery,
Chennai - 07.

3.The Jail Superintendent,
Central Prison, Puzhal, Chennai.

4.The Inspector of Police, (Crime),
M7, Manali New Town Police Station,
Manali, Chennai - 66.

Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus calling for entire records in connection with the detention order passed by the 2nd respondent dated 29.02.2020 in BCDFGISSSV No.152/2020 against the petitioner's husband Krishnamoorthy @ Moorthy, male, aged about 45 years, S/o.Sathaiya, who is detained in Central Prison, II , Puzhal, Chennai and set aside the detention order and direct the respondents to produce him before this Court and set him at liberty.

For Petitioner .. Mr.K.Kannan

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 Krishnamoorthy @ Moorthy, male, aged about 45 years, S/o.Sathaiya, who is the detenu. The detenu has been detained by the second respondent by his order in BCDFGISSSV No.152/2020 dated 29.02.2020, holding 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. We have also perused the records produced by the Detaining Authority.

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 remand order pertaining to adverse case at Page No.118 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 BCDFGISSSV No.152/2020 dated 29.02.2020, passed by the second respondent is set aside. The detenu, namely, Krishnamoorthy @ Moorthy, male, aged about 45 years, S/o.Sathaiya, aged 44 years, is directed to be released forthwith unless his detention is required in connection with any other case.

-Sd/-

Assistant Registrar (CS)

// True Copy //

Sub Assistant Registrar

ssm

To

1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai-600 009.

2.The Commissioner of Police,
Greater Chennai, Vepery,
Chennai - 07.

3.The Jail Superintendent,
Central Prison, Puzhal, Chennai.

4.The Inspector of Police, (Crime),
M7, Manali New Town Police Station,
Manali, Chennai - 66.

5.The Public Prosecutor,
High Court, Madras.

+1 C.C. to MR.K.KANNAN Advocate SR.NO.39132

H.C.P.No.1028 of 2020

VG.II
UM (16.12.2020)



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