

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.11.2020

Coram

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

H.C.P.No.1077 of 2020

Shakunthala

... Petitioner

vs.

1. The District Collector & District Magistrate,
Office of the District Collector Krishnagiri Town
& District.
2. The Additional Chief Secretary
Home, Prohibition and Excise Department,
Govt. of Tamil Nadu, Secretariat,
Fort St.George,
Chennai - 09.
3. The Superintendent of Police,
Office of the Superintendent of Police,
Krishnagiri Town & District
4. The Deputy Superintendent of Police,
Thenkanikottai Range,
Uddanapallai Police Station,
Krishnagiri District.
5. The Superintendent of Prison,
Central Prison, Salem,
Hasthampatti, Salem - 636 007.

... Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus calling for the records in S.C.No.01/2020 on the file of the first respondent quash the order of detention dated 31.01.2020 and direct the production of the detenu detained in Central Prison Salem under Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Cyber Law Offenders, Drug Offenders, Forest Offenders, Sand Offenders, Slum Grabbers and Video Pirates Act (Act 14 of 1982) before this Court and set the detenu Gopal, son of Muniyappan, at liberty.

For Petitioner : Mr.R.John Sathyan

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 Gopal, son of Muniyappan, who is the detenu. The detenu has been detained by the first respondent by his order in S.C.No.01/2020, dated 31.01.2020 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 including the counter affidavit 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 ground case at Page No.96 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 S.C.No.01/2020, dated 31.01.2020 passed by the first respondent is set aside. The detenu, namely, Gopal, son of Muniyappan, 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.District Collector & District Magistrate
Office of the District Collector Krishnagiri Town & District.
- 2.The Additional Chief Secretary
Home, Prohibition and Excise Department,
Govt. of Tamil Nadu, Secretariat, Fort St.George,
Chennai - 09.
- 3.The Superintendent of Police,
Office of the Superintendent of Police,
Krishnagiri Town & District
- 4.The Deputy Superintendent of Police,
Thenkanikottai Range,
Uddanapallai Police Station,
Krishnagiri District.
- 5.The Superintendent of Prison,
Central Prison, Salem, Hasthampatti, Salem - 636 007.
- 6.The Joint Secretary to Government public and order
Secretariat Chennai-9.
- 7.The Public Prosecutor,
High Court, Madras.

H.C.P. No.1077 of 2020

MG (CO)
RMP (19/11/2020)

सत्यमेव जयते

WEB COPY