

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.12.2020

CORAM

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

H.C.P.NO.1267 OF 2020

M.Renuka

... Petitioner

Vs.

1. The Union of India, Rep. Its Secretary to the Government of India, Ministry of Home Affairs, (Department of Internal Security), North Block, New Delhi 110 001.
2. The Secretary to Government, Home, Prohibition and Excise Department, Secretariat, Fort St. George, Chennai 600 009.
3. The Commissioner of Police, Coimbatore City, Coimbatore.
4. The Superintendent of Police, Central Prison, Coimbatore.
5. The Inspector of Police, E-3, Saravanampatti Police Station, Coimbatore.

... Respondents

Prayer:-

Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Habeas Corpus to produce the body of the petitioner's Husband namely D. Mahendran, son of Dhanapal, Aged 39 years, who is detained in 4th respondent/Central Prison, Coimbatore before this Court and set him at liberty forthwith by calling for the records pursuant to the detention order dated 14.03.2020 made in C.No.02/NSA/IS/2020 on the file of the 3rd respondent herein and quash the same.

For Petitioner : Mr.B.Kumarasamy

For Respondents Mr.R.Prathap Kumar,
: Addl. Public Prosecutor
for R2 to R5

ORDER

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

The petitioner is the wife of D.Mahendran, son of Dhanapal, aged 39 years, who is the detenu. The detenu has been detained by the third respondent by his order in C.No.02/NSA/IS/2020 dated 14.03.2020. 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 2 to 5. We have also perused the records produced by the Detaining Authority.

3.Though the 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 Government Order based on which the detention order has been passed, has not been translated in vernacular language. This deprived the detenu from making effective representation. Learned counsel further submitted that the co-detenu has already been released by setting aside the detention order on the very same ground. Therefore, the detention order is liable to be quashed.

4.Learned Additional Public Prosecutor submitted that mere non-translation of the Government Order will not vitiate the order impugned. Thus, the habeas corpus petition will have to be dismissed.

5.On consideration of the submissions made on either side and upon perusal of the documents available on record especially Page No.139 and 140 of the booklet, it is clear that the Government Order, which was relied upon by the detaining authority has not been translated in vernacular language. Thus the impugned detention order is liable to be set aside on this ground.

6. In the result, the Habeas Corpus Petition is allowed and the order of detention in C.No.02/NSA/IS/2020 dated 14.03.2020, passed by the third respondent is set aside. The detenu, namely, D.Mahendran, son of Dhanapal, aged 39 years, is

directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

mmi/ssm

To

1. The Secretary to the Government of India,
Ministry of Home Affairs,
(Department of Internal Security), North Block,
New Delhi 110 001.
2. The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Fort St. George, Chennai 600 009.
3. The Commissioner of Police, Coimbatore City, Coimbatore.
4. The Superintendent of Police, Central Prison, Coimbatore.
5. The Inspector of Police,
E-3, Saravanampatti Police Station, Coimbatore.
6. The Joint Secretary to Government,
Public (Law & Order), Fort St.George,
Chennai-9.
7. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.B.Kumarasamy, Advocate, S.R.No.42182

H.C.P.No.1267 of 2020

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