

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.12.2020

Coram

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

H.C.P. No. 1286 of 2020

K.Sumithra

... Petitioner

Vs

1. The Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat, Fort St. George, Chennai -9.
2. The District Magistrate and District Collector,
Thiruvallur District, Thiruvallur.
3. The Superintendent of Police,
O/o. Superintendent of Police,
Thiruvallur, Thiruvallur District.
4. The Superintendent of Prison,
Central Prison II, Puzhal, Chennai.
- 5.State rep. By The Inspector of Police,
Vengal Police Station, Thiruvallur District. ... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Habeas Corpus, calling for the entire records, relating to the petitioner's husband detention under Tamil Nadu Act 14 of 1982 vide detention order dated 28.06.2020 on the file of the second respondent herein made in proceedings BCDFGISSSV No.21/2020, quash the same as illegal and consequently direct the respondents herein to produce the petitioner's husband namely Karthick, S/o.Neelamegam, aged 24 years before this Court and set the petitioner's husband at liberty from detention, now the petitioner's husband detained at Central Prison II, Puzhal, Chennai.

For Petitioner : Mr.R.Sasikumar

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 Karthick, S/o.Neelamegam, aged 24 years, who is the detenu. The detenu has been detained by the second respondent by his order in BCDFGISSSV No.21/2020, dated 28.06.2020 holding him to be a "Sand Offender", as contemplated under Section 2(gg) 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 Form 91 pertaining to the adverse case at Page No.9 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.21/2020, dated 28.06.2020 passed by the second respondent is set aside. The

detenu, namely, Karthick, S/o.Neelamegam, aged 24 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 the Government,
Home, Prohibition and Excise Department,
Secretariat, Fort St. George, Chennai -9.
- 2.The District Magistrate and District Collector,
Thiruvallur District, Thiruvallur.
- 3.The Superintendent of Police,
O/o. Superintendent of Police,
Thiruvallur, Thiruvallur District.
- 4.The Superintendent of Prison,
Central Prison II, Puzhal, Chennai.
- 5.The Inspector of Police,
Vengal Police Station, Thiruvallur District.
- 6.The Public Prosecutor,
High Court, Madras.

UM(CO)
RMP(19/01/2021)

सत्यमेव जयते H.C.P. No.1286 of 2020

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