

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.12.2020

Coram

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

H.C.P. No. 1305 of 2020

P. Maheswari

...Petitioner

.Vs.

1. The Secretary to the Government,
Home, Prohibition & Excise Department,
Secretariat, Fort St. George, Chennai 600 009.
2. The District Collector and District Magistrate,
Cuddalore District, Cuddalore.
3. The Superintendent of Police,
O/o. Superintendent Office, Cuddalore District,
Cuddalore.
4. The Superintendent of Prison,
Central Prison, Cuddalore.
5. State rep. By its, The Inspector of Police,
PEW - Cuddalore Police Station,
Cuddalore 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 14.07.2020 on the file of the second respondent herein made in proceedings C3/D.O./84/2020, quash the same as illegal and consequently direct the respondents herein to produce the petitioner's husband namely Pazhani, S/o. Gopal, aged 40 years before this Court and set the petitioner's husband at liberty from detention, now the petitioner's husband detained at Central Prison, Cuddalore.

For Petitioner : Mr.S.Silambarasan

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 Pazhani, S/o. Gopal, aged 40 years, who is the detenu. The detenu has been detained by the second respondent by his order in C3/D.O./84/2020 dated 14.07.2020, holding him to be a "Bootlegger", as contemplated under Section 2(b) 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 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 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 pertaining to third adverse case at Page No.46 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 C3/D.O./84/2020 dated 14.07.2020, passed by the second respondent is set aside. The detenu, namely, Pazhani, S/o. Gopal, aged 40 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

1. The Secretary to the Government,
Home, Prohibition & Excise Department,
Secretariat, Fort St. George, Chennai 600 009.
2. The Joint Secretary to Government,
Public (Law & Order), Fort St. George,
Chennai-9
3. The District Collector and District Magistrate,
Cuddalore District, Cuddalore.
4. The Superintendent of Police,
O/o. Superintendent Office, Cuddalore District,
Cuddalore.
5. The Superintendent of Prison,
Central Prison, Cuddalore.
6. The Inspector of Police,
PEW - Cuddalore Police Station,
Cuddalore District.
7. The Public Prosecutor,
High Court, Madras.

H.C.P. No.1305 of 2020

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