

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.01.2020

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THE HONOURABLE MR.JUSTICE R.SUBBIAH
and
THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

H.C.P.No.2098 of 2019

E.Kesavan

... Petitioner

Vs

1. The Secretary to the Government
of Tamil Nadu,
Home, Prohibition and Excise Department,
Secretariat,
Chennai 600 009.

2. The Commissioner of Police,
Greater Chennai,
Vepery, Chennai 600 007.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus calling for the records in Memo No.BCDFGISSSV.No.542/2019 on the file of the second respondent quash the detention order dated 29.08.2019 and direct the respondent to produce the detenu Elumalai, s/o.Kesavan detained at the Central Prison, Puzhal, under the Tamil Nadu Act 14 of 1982 before this Court and set him at liberty.

For Petitioner : M/s.P.K.Ganesh

For Respondents: Mr.R.Prathap Kumar
Additional Public Prosecutor

O R D E R

[Order of this Court was made by R.SUBBIAH, J]

Petitioner is the father of the detenu viz., Elumalai, S/o.Kesavan, aged 31 years, who has been branded as a 'Goonda' under the Tamil Nadu Act 14 of 1982 and detained under order of

second respondent passed in BCDFGISSSV No.542 of 2019 dated 29.08.2019

2. The alleged ground case has been registered against the detenu in Crime No.669 of 2019 on the file of S-11, Tambaram Police Station for offences u/s.341, 302, 506(ii) IPC. Aggrieved by the order of detention, the present writ petition has been filed.

3. Heard learned counsel for petitioner and learned Additional Public Prosecutor appearing for respondents. Perused the materials on record.

4. The learned counsel for the petitioner submitted that the detaining authority in arriving at a subjective satisfaction has relied upon the similar case. However, the said order copy has not been furnished to the detenu. The learned counsel informs that the same adversely has affected his right of making an effective representation.

5. Considering the rival submissions made by learned counsel for petitioner, this Court is of the view that non-furnishing of the similar case order, denies him the opportunity of making an effective representation and consequently, his right under Article 22(5) of the Constitution of India stands denied. This would vitiate the order of detention. For the aforesaid reasons, this Court would allow the present petition.

6. Accordingly, the Habeas Corpus Petition is allowed and the detention order passed by the second respondent against the detenu viz., Elumalai, S/o.Kesavan, in BCDFGISSSV No.542 of 2019 dated 29.08.2019, is quashed. The above named detenu is ordered to be set at liberty forthwith, unless his custody is required in connection with any other case.

सत्यमेव जयते

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai 600 009.
2. The Commissioner of Police,
Greater Chennai,
Veperi, Chennai 600 007.
3. The Superintendent,
Central Prison, Puzal, Chennai.
4. The Joint Secretary to Government,
Public(Law & Order), Fort St.George, Chennai-9.
5. The Public Prosecutor,
High Court, Madras.

H.C.P.No.2098 of 2019

sr(co)
nr 17/02/2020



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