

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.01.2020

CORAM

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

H.C.P.No.2321 of 2019

Radhakrishnan

... Petitioner

Vs

1. State of Tamil Nadu
Rep.by its Secretary to Government
Home, Prohibition and Excise Department,
Secretariat, Chennai 600 009.
 2. The District Collector and
District Magistrate of Cuddalore District
Cuddalore.
- ... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus calling for the entire records relating to the petitioner's brother detention under Tamil Nadu Act 14 of 1982 vide detention order, dated 25.09.2019 on the file of the second respondent herein made in proceedings C3/D.O/69/2019 quash the same as illegal and consequently direct the respondents herein to produce the petitioner's brother namely Rabinkumar, S/o.Rajapandiyan, aged 26 years before this Court and set the petitioner's brother at liberty from detention, now the petitioner's brother detained at Central Prison, Cuddalore.

For Petitioner : M/s.C.C.Chellappan
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 brother of the detenu viz., Rabinkumar, S/o.Rajapandiyan, aged 26 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 C3/DO/69/2019 dated 25.09.2019.

2. The detenu came to adverse notice in the following cases:

Sl.No.	Police Station and Crime No.	Section of Law
1.	Bhuvanagiri Police Station Cr.No.107 of 2019	379 IPC

The alleged ground case has been registered against the detenu in Crime No.147 of 2019 on the file of Bhuvanagiri Police Station for offences u/s. 341, 294(b), 392, 397, 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. Learned counsel for petitioner submits that despite the admitted position that the detenu has filed bail application in the ground case, it is seen that the detaining authority has taken into consideration the similar case registered u/s 397, 353 IPC in Cuddalore O.T. Police Station Cr.No.22/2019, bail was granted by the District and Sessions Court, Cuddalore in CrI.M.P.No.1232/2019. The similar case relied on by the authority was registered for the offences under Sections 397, 353 IPC in Cuddalore O.T. Police Station Cr.No.22/2019 whereas the offences involved in the adverse cases and ground case are under Sections 341, 294(b), 379, 392, 397, 506(ii) IPC. Learned counsel submits that in the case cited as similar, the offences are different from that of the offences in the ground case. The non-consideration of such aspect reflects non-application of mind.

5. We have heard learned Additional Public Prosecutor on the above submissions.

6. As rightly submitted by learned counsel for petitioner, the offences alleged in the similar case, relied on by the detaining authority in arriving at a subjective satisfaction, are different from that of the offences alleged in the ground case. Hence, we find that the order of detention suffers from non application of mind.

7. Accordingly, the Habeas Corpus Petition is allowed and the detention order passed by the second respondent against the detenu viz., Rabinkumar, S/o.Rajapandian, in No.C3/D.O/69/2019 dated 25.09.2019, 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.

Sd/-
Asst.Registrar (CSV)

/true copy/
Sub Asst. Registrar

dpq

To

1. The Secretary to Government
Home, Prohibition and Excise Department,
Secretariat, Chennai 600 009.
2. The District Collector and
District Magistrate of Cuddalore District
Cuddalore.
3. The Superintendent of Prison
Cuddalore
- 4.The Joint Secretary to Government
Public Law & Order
Fort St.George Chennai
- 5.The Public Prosecutor,
High Court, Madras.

H.C.P.No.2321 of 2019

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