

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.02.2020

CORAM

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

H.C.P.No.2363 of 2019

Deepika
W/o.Kuppa @ Kuppusamy ... Petitioner

Vs

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600009.
- 2.The Commissioner of Police,
Greater Chennai. ... 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 connection with the order of detention passed by second respondent in Memo No.628/BCDFGISSSV/2019 dated 30.09.2019 against the petitioner's husband viz., Kuppa @ Kuppusamy, Male, aged about 30 years, S/o.Ravi, who is confined at Central Prison, Puzhal, Chennai and set aside the same and direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner : Mr.K.Shanmugam

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 wife of the detenu viz., Kuppa @ Kuppusamy S/o.Ravi, aged 30 years, who has been branded as a 'Drug Offender' under the Tamil Nadu Act 14 of 1982 and detained under order of second respondent passed in Memo No.628/BCDFGISSSV/2019 dated 30.09.2019.

2. The detenu came to adverse notice in Crime No.9 of 2019 on the file of J-11 Kannagi Nagar Police Station for offences u/s.8(c) r/w 20(b)(ii)(B) NDPS Act, 1985. The alleged ground case has been registered against the detenu in Crime No.459 of 2019 on the file of J-11 Kannagi Nagar Police Station for offences u/s.8(c) r/w 20(b)(ii)(B) of NDPS Act, 1985. 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 page No.161 i.e. copy of Form-91, in the booklet furnished to the detenu is illegible. Learned counsel informs that the same adversely has affected his right of making an effective representation.

5. When the documents furnished to the detenu are illegible, opportunity of clear understanding and making effective representation in keeping with Article 22(5) of the Constitution of India on such understanding is lost and the detenu is deprived thereof. This would vitiate the order of detention. For the aforesaid reasons, this Court would allow the present petition.

Accordingly, the Habeas Corpus Petition is allowed and the detention order passed by the second respondent against the detenu viz., Kuppa @ Kuppusamy S/o.Ravi, in Memo No.628/BCDFGISSSV/2019 dated 30.09.2019, is set aside. The above named detenu is ordered to be set at liberty forthwith, unless his custody is required in connection with any other case.

Sd/-

सत्यमेव जयते Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

gm

To

1.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600009.

2.The Commissioner of Police,
Greater Chennai.

3.The Superintendent,
Central Prison,
Puzhal, Chennai.

4.The Joint Secretary to Government,
Public(Law & Order),
Fort Saint George, Chennai - 9.

5.The Additional Public Prosecutor,
High Court, Madras.

H.C.P.No.2363 of 2019

rr[col]
srg 20/03/2020



WEB COPY