

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.02.2020

CORAM

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

H.C.P.No.2372 of 2019

Gowri
W/o.Dharman

... Petitioner

Vs

1.State represented by
Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600009.

2.The District Collector & District Magistrate,
T.V.Malai,
T.V.Malai District.

... 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 D.O.No.75/2019-C2 passed by second respondent on 09.10.2019, set aside the same and direct respondents to produce the detenu viz., Durai S/o.Kasi, aged 41 years, who is no detained at Central Prison, Vellore, before this Court and set him at liberty.

For Petitioner : Mr.S.Swamidoss Manokaran

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

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O R D E R

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

Petitioner is the sister-in-law of the detenu viz., Durai S/o.Kasi, aged 41 years, who has been branded as a 'Bootlegger' under the Tamil Nadu Act 14 of 1982 and detained under order of second respondent passed in D.O.No.75/2019-C2 dated 09.10.2019.

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

Sl.No.	Police Station and Crime No.	Section of Law
1.	Polur Town Police Station, Crime No.31/2018	4(1)(aa) r/w 4(1-A) (ii) @ 4(1)(aa) TNP Act, 1937
2.	Polur Town Police Station, Crime No.429/2018	4(1)(aa) r/w 4(1-A) (ii) @ 4(1)(aa) TNP Act, 1937
3.	Polur Town Police Station, Crime No.495/2018	4(1)(a) TNP Act, 1937

The alleged ground case has been registered against the detenu in Crime No.502 of 2019 on the file of Polur Town Police Station for offences u/s.4(1)(i) r/w 4(1-A)(ii) TNP Act, 1937. 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 Nos.74 and 75 i.e. copy of Form 91, in the booklet furnished to the detenu are 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., Durai S/o.Kasi, in D.O.No.75/2019-C2 dated 09.10.2019, 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/-

Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

gm

To

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600009.
- 2.The District Collector & District Magistrate,
T.V.Malai,
T.V.Malai District.
- 3.The Superintendent of Central Prison,
Vellore.
- 4.The Joint Secretary to Govt Law & Order
Secretariat, Chennai-9.
- 5.The Public Prosecutor,
High Court, Madras.

H.C.P.No.2372 of 2019

MG(CO)
CB(20/03/2020)



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