

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.05.2020

Coram

The Hon'ble Mr. Justice M.M.SUNDRESH
and
The Hon'ble Ms. Justice P.T.ASHA

H.C.P. No.2700 of 2019

Usha ... Petitioner/
wife of detenue

-vs-

1. The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai - 600 009.
2. The District Collector and District Magistrate
Vellore District, Vellore-9. ... Respondents

Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus to call for the entire records in connection with the order of Detention passed by the second respondent dated 22.11.2019 in Memo No.C3/D.O.No.128/2019 against the petitioner's husband Gopi, Male, aged 42 years S/o.Pachaiyappan, who is confined at Central Prison, Vellore and set aside the same and direct the respondents herein to produce the detenue before this Court and set him at liberty.

For Petitioner .. Mr.S.Senthil Vel
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 father of Gopi, Male, aged 42 years S/o.Pachaiyappan, who is the detenue. The detenue has been detained by the second respondent by his order in in Memo No.C3/D.O.No.128/2019 dated 22.11.2019, holding him to be a "Goonda", as contemplated under the provisions of Section 2(f) 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 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 observation mahazar at Page No.33 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 Memo No.C3/D.O.No.128/2019 dated 22.11.2019, passed by the second respondent is set aside. The detenu, namely, Gopi, Male, aged 42 years S/o.Pachaiyappan, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

mmi/mra

To

1. The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai - 600 009.
2. The District Collector and District Magistrate
Vellore District, Vellore-9.

3. The Public Prosecutor,
High Court, Madras.
4. The Joint Secretary to Govt.
Public (law & order)
Fort st. George,
Chennai-9.
5. The Superintendent,
Central Prison, Vellore.

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BS (CO)
RMP (20/07/2020)



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