

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.06.2020

CORAM

THE HON'BLE MR. JUSTICE M.M.SUNDRESH
AND
THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

H.C.P. NO. 2801 OF 2019

Vivek, 28 years

S/o.Ravi

Mariyamman Koil Street

Parasureddipalayam Village

Vilupuram Taluk

Vilupuram District.

....Petitioner

-vs-

1. State of Tamil Nadu

Rep. by the Secretary, Home

Prohibition and Excise Department

Fort St.George

Chennai - 600 009.

2. District Collector and District Magistrate

Office of the District Collector and District

Magistrate

Vilupuram District.

...Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of habeas corpus calling for the records relating to the detention order in R.C.No. C2/31460/2019, dated 09.11.2019 passed by the 2nd respondent under the Tamil Nadu Act 14 of 1982 and set aside the same and direct the respondent to produce the petitioner's brother Ashok S/o.Ravi aged about 25 years the detinue, now confined in Central Prison, Cuddalore before this Hon'ble Court and set the petitioner's brother Ashok S/o.Ravi aged about 25 years the detinue herein at liberty.

For Petitioner : Mr.U.Yuvaraj

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 brother of Ashok S/o.Ravi aged about 25 years, who is the detenu. The detenu has been detained by the second respondent by his order in R.C.No. C2/31460/2019, dated 09.11.2019, holding him to be a "Bootlegger", as contemplated under Section 2(b) 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 and we have also perused the records carefully.

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 bail order pertaining to similar case at Page No.57 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 R.C.No. C2/31460/2019, dated 09.11.2019 passed by the second respondent is set aside. The detenu, namely, Ashok S/o.Ravi aged about 25 years 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

To

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

H.C.P. No. 2801 of 2019

RSV(CO)
KKV/24/07/2020



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