



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 01.09.2020
CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM
and
THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI

H.C.P. (MD) No.123 of 2020

Mariyappan

... Petitioner / Father of Detenu

-vs-

- 1.The State of Tamil Nadu,
rep. by Principal Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George, Chennai - 9.
- 2.The District Collector and District Magistrate,
Theni District, Theni.
- 3.The State of Tamil Nadu,
rep. by Inspector of Police,
Bodinayakanur Town Police Station,
Theni District (Crime No.937/2019)
- 4.The Superintendent of Prison,
Central Prison, Madurai.

... Respondents

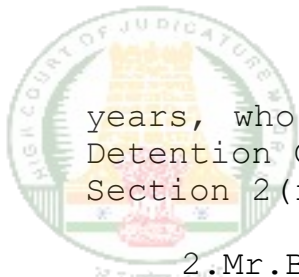
PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of habeas corpus calling for the entire records relating to the Detention Order passed by the second respondent in Detention Order No.28/2019 dated 18.12.2019 and to quash the same and direct the respondents to produce the body of the detenu, M.Seenivasan, son of M.Mariappan, aged about 25 years, before this Court and set him at liberty, now detained at Central Prison, Madurai.

For Petitioner : Mr.B.Sudhasathyananth
For Respondents : Mr.V.Neelakandan
Additional Public Prosecutor

O R D E R

[Order of the Court was made by K.KALYANASUNDARAM, J.]

The Habeas Corpus Petition has been filed by the father of the
detenu, namely, M.Seenivasan Son of M.Mariappan, aged about 25
<https://hcservices.ecourts.gov.in/hcservices/>



years, who has been branded as "Goonda" by the second respondent in Detention Order No.28/2019 dated 18.12.2019, as contemplated under Section 2(f) of the Tamil Nadu Act 14 of 1982.

2.Mr.B.Sudhasathyananth learned counsel for the petitioner would submit that though the impugned order of detention has been challenged on various grounds, he has confined his argument only on the ground of non-application of mind on the part of the detaining authority. It is submitted that for the solitary incident, the detention order came to be passed, but in paragraph No.5 of the detention order, it has been referred as if the detenu has been involving in disturbance to the public.

3.Per contra, Mr.V.Neelakandan, learned Additional Public Prosecutor appearing for the respondents would argue that the detaining authority, namely, the second respondent herein, after being satisfied with the cogent materials produced by the sponsoring authority, has passed the detention order only to prevent the detenu from indulging in similar offence in future, which would prejudice to the maintenance of the public order. Hence, he prayed for dismissal of the Habeas Corpus Petition.

4.We have heard the rival submissions and perused the materials available on records.

5.Perusal of the detention order would show that the detaining authority while arriving at subjective satisfaction has stated that the detenu has been continuously engaged himself in the prejudicial activities of maintenance of public order and peace. But admittedly, nothing on record to show that the detenu has involved in the adverse case, which shows lack of application on the part of the detaining authority. Hence, in our considered view, the detention order is liable to be set aside solely on the ground of non-application of mind.

6. In fine, the order of detention passed by the second respondent, in Detention Order No.28/2019 dated 18.12.2019 is set aside and the Habeas Corpus Petition is allowed. Consequently, the detenu, namely, M.Seenivasan, Son of M.Mariappan, Male aged about 25 years, now detained at Central Prison, Madurai is directed to be released forthwith unless his presence or custody or detention is required in connection with any other case.

Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)



Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To

- 1.The Principal Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George, Chennai - 9.
- 2.The District Collector and District Magistrate,
Theni District, Theni.
- 3.The Inspector of Police,
Bodinayakanur Town Police Station, Theni District.
- 4.The Superintendent of Prison,
Central Prison, Madurai.
- 5.The Joint Secretary to Government,
Public (Law & Order),
Fort St. George, Chennai 600 009.
- 6.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

H.C.P. (MD) No.123 of 2020

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