



WEB COPY

H.C.P.(MD) No.203 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.09.2020

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

and

THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI

H.C.P. (MD) No.203 of 2020

Lakshmi

... Petitioner

-vs-

1.The Additional Chief Secretary to the Government
Home, Prohibition and Excise Dept.,
Secretariat, Chennai-600 009

2. The District Magistrate and
District Collector,
Dindigul District, Dindigul

3. The Superintendent of Prison
Central Prison
Madurai

... Respondents

PRAYER : Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Habeas Corpus calling for the records in connection with the order of detention passed by the second respondent dated 17.02.2020 in Detention Order No.17/2020, against the petitioner husband Selvam @ Selvanesan, male, aged 47 years, son of Munusamy, who is confined at Central Prison, Madurai and set aside the same and direct the respondents to produce the detenu before this Court and set him at liberty.

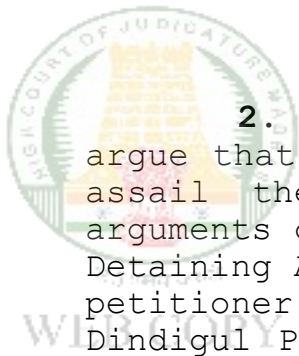
For Petitioner : Mr.R.Ilayaraja

For Respondents : Mr.V.Neelakandan
Additional Public Prosecutor

O R D E R

(Order of the Court was made by K.KALYANASUNDARAM, J.)

This habeas corpus petition has been filed by the wife of the detenu, namely, Selvam @ Selvanesan, son of Munusamy, aged 47 years, challenging the detention order No.17/2020, dated 17.02.2020, passed by the second respondent, branding him as "Bootlegger" as contemplated under Section 2(b) of Tamil Nadu Act 14 of 1982.



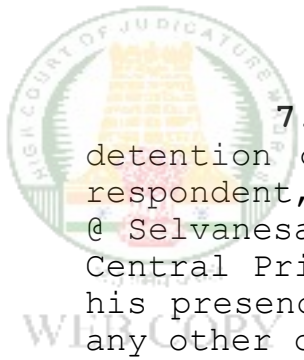
2. Mr.R.Ilayaraja, learned counsel for the petitioner, would argue that even though the petitioner has raised several grounds to assail the impugned order of detention, he has confined his arguments only to the lack of application of mind on the part of the Detaining Authority. It is submitted by the learned counsel for the petitioner that a case has been registered against the detenu in Dindigul Prohibition Enforcement Wing Crime No.44 of 2020, for the offence under Sections 4(1)(aaa), 4(1-A) of Tamilnadu Prohibition Act, 1937 and Sections 468, 471 and 420 I.P.C. But, in the impugned detention order, the offence under Section 420 I.P.C., has been wrongly mentioned as 402 I.P.C. It is also contended that there was no proper translation of the similar case particulars referred by the Detaining Authority.

3. Mr.V.Neelakandan, learned Additional Public Prosecutor, on instructions, submitted that after satisfying with the materials placed by the Sponsoring Authority, the Detaining Authority has passed the detention order and there is no illegality or infirmity in the detention order and hence, prayed for dismissal of the habeas corpus petition.

4. Heard both sides and perused the materials available on record.

5. A perusal of the detention order would show that in Paragraph No.3(i), it is stated that as if a case in Crime No.44 of 2020 is registered against the detenu, for the offence under Sections 4(1)(aaa), 4(1-A) of Tamilnadu Prohibition Act, 1937 and Sections 468, 471 and 402 I.P.C. But, the F.I.R. in Crime No.44 of 2020, annexed in Page No.1 of the Typed Set, would show that the case was registered for the offence under Sections 4(1)(aaa), 4(1-A) of Tamilnadu Prohibition Act, 1937 and Sections 468, 471 and 420 I.P.C.

6. That apart, as rightly pointed out by the learned counsel for the petitioner, in the similar case relied on by the Detaining Authority, in Dindigul Prohibition Enforcement Wing, a case in Crime No.55 of 2018 is registered for the offence under Sections 4(1)(a) (aaa), 4(1-A) of Tamilnadu Prohibition Act and Sections 468, 471 and 476 I.P.C. and bail was granted to one Rameshkumar, vide order dated 28.04.2018 in CrI.M.P.No.1163 of 2018, by the learned Principal Sessions Judge, Dindigul. But, in the translation of vernacular language, the crime number is wrongly mentioned as 55 of 2020 instead of 55 of 2018 and the offence is also wrongly mentioned as 420 I.P.C. instead of 476 I.P.C., which shows lack of application of mind on the part of the Detaining Authority to reach the subjective satisfaction. Hence, in our considered view, the detention order is liable to be set aside.



7. In fine, the Habeas Corpus Petition is allowed. The detention order No.17/2020, dated 17.02.2020, passed by the second respondent, is set aside. Consequently, the detenu, namely, Selvam @ Selvanesan, son of Munusamy, aged 47 years, who is 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 (C.O)

// 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.

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To:

1. The Additional Chief Secretary to the Government,
Home, Prohibition and Excise Dept.,
Secretariat, Chennai-600 009.
2. The District Magistrate and
District Collector,
Dindigul District, Dindigul.
3. The Superintendent of Prison,
Central Prison, Madurai.
4. The Joint Secretary to Government.
Public(Law and Order),
Fort Saint George, Chennai-09.
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

H.C.P. (MD) No.203 of 2020

15.09.2020

(1/6)

AC (CO)

CS (25.09.2020) 3P 5C