



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.09.2020

CORAM:

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

H.C.P. (MD) No.205 of 2020

Karuppasamy

... Petitioner

vs.

1.State of Tamil Nadu,
represented by the Principal Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George, Chennai - 600 009.

2.The District Collector and the District Magistrate,
Thoothukudi District,
Thoothukudi.

3.The Superintendent of Prison,
Central Prison,
Palayamkottai,
Tirunelveli.

... Respondents

PRAYER: The Habeas Corpus Petition is filed under Article 226 of the Constitution of India, to issue a writ of habeas corpus calling for the entire records connected with the detention order passed in H.S. (M).Confdl. No.17/2020, dated 17.02.2020 on the file of the second respondent herein and quash the same and direct the respondents to produce the detenu or body of the detenu viz., the petitioner's son ie., Thangapandi, aged about 20 years, S/o. Karuppasamy, now detained at the Central Prison, Palayamkottai, before this Court and set him at liberty forthwith.

For Petitioner: Mr.N.Pragalathan

For Respondents:Mr.V.Neelakandan

Additional Public Prosecutor

O R D E R

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

The father of the detenu has come forward with this Habeas Corpus Petition to quash the detention order passed by the second respondent, dated 17.02.2020, in H.S.(M).Confdl.No.17/2020,



whereunder the detenu viz., Thangapandi, S/o. Karuppasamy, aged about 20 years has been detained as 'Goonda'.

2. Mr.N.Pragalathan, learned counsel appearing for the petitioner would argue that the impugned order is liable to be quashed on the sole ground of arbitrariness exercised by the authorities in clamping detention order only against the detenu (A3), while the criminal case has been registered against eight accused. It is the contention of the learned counsel for the petitioner that the First Information Report has been registered showing four persons as accused, wherein the petitioner has been referred as A3, but the detention order has been passed only against the detenu and the other three accused named in the F.I.R has been released on bail. The learned counsel for the petitioner placing reliance on the decision of this Court reported in **2010 (1) MWN (Cr.) 129 (Chandra v. The Secretary to Government)** and the order passed by this Court in H.C.P.(MD).No.613 of 2019, dated 02.01.2020, would argue that the detaining authority without offering any explanation whatsoever, has clamped detention order only against A3 and hence, it is liable to be set aside.

3. Per contra, Mr.V.Neelakandan, learned Additional Public Prosecutor would submit that though a case was registered originally against four accused, during investigation, it came to light that other four accused also involved in this occurrence and hence, a final report has been laid against eight accused. It is further contended that there is no illegality or irregularity in the order of detention passed by the second respondent. 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. In the instant case, it is an admitted fact that based on a solitary instance, the detention order has been passed. It is seen that even though F.I.R. was registered against four accused, subsequently, the final report has been filed against eight accused. To be noted that admittedly, the detention order has been passed only against A3 and others have been released on bail. In the decision relied on by the learned counsel for the petitioner, it has been held that the authorities cannot exercise their power arbitrarily for picking and choosing only some of the accused to clamp the order of detention. In this case also, no explanation has been given by the respondents for passing detention order only against the detenu /A3. So, we are of the opinion that the order impugned in this petition is liable to be set aside. Accordingly, the order of detention passed by the second respondent, in H.S.(M). Confdl. No.17/2020, dated 17.02.2020, is set aside and the Habeas Corpus Petition is allowed. Consequently, the detenu, namely, Thangapandi, aged about 20 years, S/o. Karuppasamy, now detained at



Palayamkottai Central Prison is directed to be released forthwith unless his presence or custody or detention is required in connection with any other case.

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Sd/-

Assistant Registrar (CS-I)

/ /2020

Sub Assistant Registrar(CS)

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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 - 600 009.
- 2.The District Collector and the District Magistrate,
Thoothukudi District,
Thoothukudi.
- 3.The Superintendent of Prison,
Central Prison,
Palayamkottai,
Tirunelveli.
- 4.The Joint Secretary to Government,
Public(Law & Order),
Fort Saint George, Chennai-9.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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