



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.11.2020

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

and

THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI

H.C.P. (MD) No.725 of 2020

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Chithra

... Petitioner/Wife of the detenu

-vs-

- 1.The Principal Secretary to Government
Home, Prohibition & Excise Department
Secretariat, Fort St.George, Chennai-600 009
 - 2.The District Collector and District Magistrate
Ariyalur District, Ariyalur
 - 3.The Inspector of Police
Prohibition Enforcement Wing
Ariyalur
 - 4.The Superintendent
Central Prison, Trichy
- ... Respondents

PRAYER : Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Habeas Corpus to call for the records pertaining to the order of detention passed by the second respondent in his proceedings Cr.M.P.No.41/2020, dated 19.05.2020 and quash the same as illegal and produce the detenu namely Suresh, son of Vengidu, aged about 35 years, now he is confined in Central Prison, Trichy, before this Court and set him at liberty.

For Petitioner: Mr.T.Lenin Kumar

For Respondents: Mr.K.Dinesh Babu
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, Suresh, son of Vengidu, aged about 35 years, challenging the order of detention passed by the second respondent in Cr.M.P.No.41/2020, dated 19.05.2020, branding him as "Bootlegger" as contemplated under Section 2(b) of the Tamil Nadu Act 14 of 1982 (hereinafter, referred to as "the Act").



2. Mr.T.Lenin Kumar, learned counsel for the petitioner would argue that though the impugned detention order has been challenged on many grounds, the detenu is entitled to succeed on the sole ground of violation of Section 8 of the Act. It is the submission of the learned counsel for the petitioner that the detenu was clamped with the detention order by the second respondent on 19.05.2020. But, the material documents and the booklet were served to him only after a lapse of nearly ten days i.e. on 28.05.2020, which would vitiate the impugned order of detention.

3. Per contra, Mr.K.Dinesh Babu, learned Additional Public Prosecutor, on instructions, would submit that the detention order has been passed by the second respondent on cogent and relevant materials furnished by the Sponsoring Authority and also considering the gravity of the offence. According to the learned Additional Public Prosecutor, there is no illegality or infirmity in the order of detention passed by the second respondent and hence, the habeas corpus petition is liable to be dismissed.

4. Heard the learned counsel on either side and perused the materials available on record.

5. In the case on hand, it is seen from the records that the detention order was passed on 19.05.2020, however, as per the typed set filed by the petitioner, the relied on documents have been supplied to the detenu only on 28.05.2020. Section 8 of the Act mandates serving of the booklet and other relevant documents on the detenu within a period of five days from the date of detention. Since there was a delay of more than five days in furnishing the relied on documents to the detenu, we are of the opinion that the impugned order of detention is liable to be set aside on the sole ground of delay in furnishing the relied on documents to the detenu.

6. In fine, the Habeas Corpus Petition is allowed. The order of detention passed by the second respondent, in Cr.M.P.No.41/2020, dated 19.05.2020, is set aside. Consequently, the detenu, namely, Suresh, son of Vengidu, aged about 35 years, who is now detained at Central Prison, Trichy, is directed to be released forthwith unless his presence or custody or detention is required in connection with any other case.

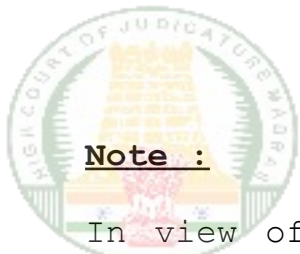
Sd/-

Assistant Registrar (Crl.Side)

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

H.C.P. (MD) No.725 of 2020

23.11.2020

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NR (08/12/2020) 3P : 7C