



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.01.2020

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THE HONOURABLE MR.JUSTICE T.RAJA

AND

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

H.C.P (MD)No.674 of 2019

WEB COPY

Ramesh

... Petitioner

Vs.

1.The Principal Secretary to Government,
State of Tamil Nadu
Home, Prohibition & Excise Department,
Fort St. George, Chennai - 600 009.

2.The District Collector and District Magistrate,
Office of the District Collector and District Magistrate,
Perambalur District, Perambalur.

3.The Superintendent of Prison,
Trichy Central Prison,
Trichy.

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Habeas Corpus to call for the entire records connected with the detention order of the respondent No.2 in Cr.M.P.No.12/2019 dated 05.07.2019 and quash the same and direct the respondents to produce the body or person of the detenu by name Ramesh, son of Periyasamy, aged about 34 years now confining at Trichy Central Prison before this Court and set him at liberty forthwith.

For Petitioner : Mr.R.Alagumani

For Respondents : Mr.K.Dinesh Babu

Additional Public Prosecutor

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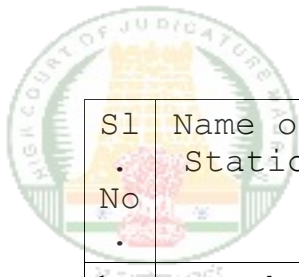
ORDER

(Order of the Court was made by **T.RAJA, J.**)

The petitioner is the detenu, viz., Ramesh and challenging the legality of the impugned order of detention dated 05.07.2019, passed by the second respondent, under Section 3(1) of Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Cyber Law Offenders, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Sexual Offenders, Slum Grabbers and Video Pirates Act, 1982, (Tamil Nadu Act 14 of 1982) and branding him as 'Goonda' in Cr.M.P.No.12/2019, he came forward to file the present Habeas Corpus Petition.

2.A perusal of the Grounds of Detention dated 05.07.2019, passed by the 2nd respondent herein, would disclose among other things that the detenu, viz., Ramesh came to the adverse notice in the following cases:-

<https://hcservices.ecourts.gov.in/hcservices/>



Sl No.	Name of the Police Station and Crime No.	Section of Law
1.	Perambalur Police Station Cr.No.357 of 2019	U/s. 380 and 506(ii) IPC

It is further stated in the grounds of detention that the detenu was involved in a case for the commission of offence under Section 302 IPC in Perambalur Police Station in Crime No.356 of 2019 (ground case). The detenu was arrested on 08.06.2019 and produced before the Court of Judicial Magistrate, Perambalur on the same day and remanded to Judicial custody. The detaining authority on being satisfied with the materials placed by the sponsoring authority that the activities of the detenu are prejudicial to the maintenance of public order, clamped the order of detention and making a challenge to the same, the present Habeas Corpus Petition has been filed by the petitioner.

3.We have heard Mr.R.Alagumani, learned counsel appearing for the petitioner and Mr.K.Dinesh Babu, learned Additional Public Prosecutor appearing for the respondents and perused the materials available on record.

4.Learned counsel appearing for the petitioner drawing our attention to page No.19 of the booklet submitted that after the arrest intimation of the accused in ground case in Crime No.356 of 2019, was not communicated to the family members or relatives of the detenu. On the other hand, the arrest information was given only to the jail authorities through P.T. Warrant and therefore, in the light of the non-communication of the arrest intimation to the family members of the detenu the mandatory guidelines given by the Hon'ble Apex Court reported in **AIR (1997) SC 610 [D.K. Basu v. State of West Bengal]** is violated and as such, the impugned order of detention is liable to be quashed.

5.Though we have heard the learned Additional Public Prosecutor appearing for the respondents, we are unable to find any explanation as to why the arrest intimation was not communicated to the family members or relatives of the detenu.

6. A perusal of page No.19 of the booklet shows that arrest information was given to the jail authorities through PT Warrant, which clearly shows that the arrest intimation was given neither to the family members nor to the relatives of the detenu and hence, the non-communication of the arrest intimation violates the guidelines given by the Hon'ble Apex Court reported in **AIR (1997) SC 610 [D.K. Basu v. State of West Bengal]**.

<https://hcservices.ecourts.gov.in/hcservices/> In similar circumstances, when an identical issue came



before this Court in HCP(MD) Nos.100, 102 and 116 of 2019, [(wherein one of us (B.PUGALENDHI, J) is a party)], this Court, by order dated 10.07.2019, clubbing all the three cases together held in paragraph No.10 as follows:

"10.As rightly pointed out by the learned counsel appearing for the petitioners, the mandate cast upon the sponsoring authority to inform the relatives of the detenu, as to the arrest and incarceration of the first adverse case, have been violated and the said guidelines has been put in place, so as to enable either by the detenus or their relatives or both of them to submit post-dated representations for revoking the orders of detention and also enabling them to take necessary steps to file applications for bail. In the considered opinion of this Court, the above said infirmity, would definitely affect the impugned orders of detention and therefore, on the sole ground, the impugned orders of detention warrant interference.

8. Following the same, despite the fact that arrest of the detenu was formally effected, the arrest information in respect of the ground case was not furnished to the relatives. It is the violation of the ratio laid down by the Apex Court in **D.K.Basu v. State of West Bengal**. Since the mandate cast upon the sponsoring authority in the light of the decision of the Apex Court in D.K.Basu's case has given a go-by, the prayer for quashment of the impugned order of detention deserves to be accepted and as such, the impugned order of detention is liable to be set aside.

9.In the result, the Habeas Corpus Petition is allowed by setting aside the Order of Detention passed by the second respondent herein, in Cr.M.P.No.12/2019 dated 05.07.2019. Consequently, the detenu, namely, Ramesh, son of Periyasamy, aged about 34 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/proceedings.

Sd/-

Assistant Registrar

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

RR

To

1.The Principal Secretary to Government,
State of Tamil Nadu
Home, Prohibition & Excise Department,
Fort St. George, Chennai - 600 009.



2.The District Collector and District Magistrate,
Office of the District Collector and District Magistrate,
Perambalur District,Perambalur.

3.The Superintendent of Prison,
Trichy Central Prison, Trichy.

4.The Joint Secretary to Government,
Public(Law and Order),
Fort St.George, Chennai - 9.

5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

H.C.P (MD) No. 674 of 2019

20.01.2020

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