



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.06.2020

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THE HONOURABLE MR.JUSTICE P.N.PRAKASH
AND
THE HONOURABLE MR.JUSTICE B.PUGALENDHI

H.C.P. (MD)No.1096 of 2019

M.Padmavathi

... Petitioner

Vs.

- 1.State of Tamil Nadu,
Rep. by the Principal Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai-600 009.
- 2.The District Collector and District Magistrate,
Thoothukudi District,
Thoothukudi.
- 3.The Superintendent of Prison,
Central Prison,
Madurai,
Madurai District.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Habeas Corpus, to call for the entire records, connected with the detention order passed in H.S.(M)Confdl.No.53/2019, dated 26.09.2019 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, namely the petitioner's husband, i.e., Muniyasamy, aged about 43 years, S/o.Mariappan, now detained at the Central Prison, Madurai, before this Court and set him at liberty forthwith.

For Petitioner : Mr.N.Pragalathan

For Respondents : Mr.K.Dinesh Babu,
Additional Public Prosecutor

* * * * *



ORDER

[Order of the Court was made by **B.PUGALENDHI, J.**]

The petitioner is the wife of the detenu viz., Muniyasamy, S/o.Mariappan, aged about 43 years. The detenu has been detained, as per the order of the second respondent, dated 26.09.2019, under Section 2(f) of the Tamil Nadu Act 14 of 1982, branding him as "Goonda". Challenging the same, the petitioner is before this Court with this Habeas Corpus Petition.

2. We have heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondents.

3. It is seen that the detention order has been clamped based on the solitary case registered on 27.08.2019 in Thoothukudi Central Police Station Crime No.350 of 2019 under Sections 147, 148, 449, 294(b), 302 and 506(ii) of the Indian Penal Code @ Sections 109, 114, 120-B, 147, 148, 449, 294(b), 302 and 506(ii) of the Indian Penal Code. However, in Paragraph No.4 of the grounds of detention, the Detaining Authority has stated as follows:

*"In the above adverse case and in the ground case, more than one person has been affected by the acts of the accused **Muniyasamy**. Moreover, the offences were caused in different periodical intervals. Further accused **Muniyasamy** has been habitually doing grave crimes and thereby acted in a manner prejudicial to the maintenance of public order."*

When there are no adverse cases to the credit of the detenu, the aforesaid averment shows lack of application of mind on the part of the Detaining Authority, which, in the opinion of this Court, vitiates the detention order.

4. In the result, this Habeas Corpus Petition is allowed by setting aside the order of detention passed by the second respondent, in H.S.(M)Confdl.No.53/19, dated 26.09.2019. Consequently, the detenu, namely, Muniyasamy, S/o.Mariappan, aged about 43 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/proceedings.

Sd/-

Assistant Registrar ()

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/ /2020

Sub Assistant Registrar(CS)



To

- 1.The Principal Secretary to Government,
State of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai-600 009.
- 2.The District Collector and District Magistrate,
Thoothukudi District,
Thoothukudi.
- 3.The Superintendent of Prison,
Central Prison,
Madurai,
Madurai District.
- 4.The Joint Secretary of Government,Public (Law & order)
Fort saint George,
Chennai -09.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Order made in
H.C.P. (MD)No.1096 of 2019

Dated:
30.06.2020

SPU (08.07.2020) 3P-6C