



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **23.03.2020**

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

AND

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

H.C.P. (MD) No.1358 of 2019

Ismail

: Petitioner

Vs.

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

2.The Commissioner of Police,
Office of the Commissioner of Police,
Tiruchirappalli City,
Tiruchirappalli.

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

: Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus to call for the entire records connected with the detention order passed in C.No.21/Detention/C.P.O/T.C/2019 dated 20.08.2019 on the file of the second respondent and quash the same and direct the respondents to produce the detenu or body of the detenu, namely, Ismail, aged about 35 years, S/o.Rahamathullah, now detained at Central Prison, Tiruchirappalli, before this Court and set him at liberty.

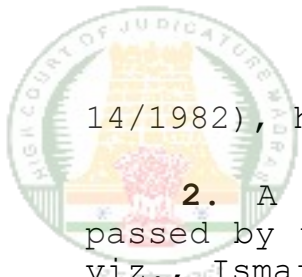
For Petitioner : Mr.R.Alagumani

For Respondents : Mr.R.Anandharaj,
Additional Public Prosecutor

O R D E R

(Order of the Court was made by B.PUGALENDHI, J.)

The detenu himself is the petitioner herein and challenging the impugned order of detention dated 20.08.2019 passed by the second respondent, branding him as a Goonda under the provisions of Section 3[1] of the Tamil Nadu Prevention of Dangerous Activities of Boot leggers, 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



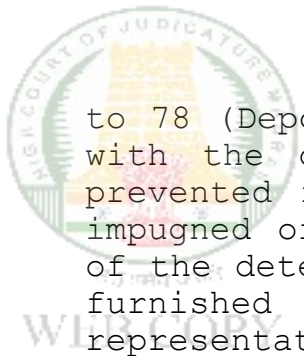
14/1982)), he has filed the present habeas corpus petition.

2. A perusal of the Grounds of Detention dated 20.08.2019, passed by the second respondent herein, would show that the detenu, viz., Ismail, came to the adverse notice in Crime No.348 of 2019, on the file of Ariyamangalam Police Station, Tiruchirappalli City, for the offence under Sections 294(b), 387 & 506(ii) IPC. It is further stated in the grounds of detention that on 08.07.2019, at about 02.00 p.m., when the complainant, namely, Hariharan, Head Constable 3043, was on duty of Beat No.22 area, he received intimation about the detenu quarrelling with the public. When he tried to apprehend the detenu, the detenu escaped and when the complainant was collecting information from one Sabiyullah about the detenu, the detenu came back with a fish cutting Aruval, abused the complainant with filthy language and caused cut injuries on the complainant. When the persons nearby came to rescue, they were threatened by the detenu with dire consequences by brandishing the Aruval and taking advantage of the situation, the detenu fled away from the scene of occurrence. The Ariyamangalam Police Station, based on the complaint received from the complainant, registered a case in Crime No.349 of 2019 for the commission of offence under Sections 332, 353, 307 IPC. The detenu was arrested on 09.07.2019 at 02.45 p.m., and was produced before the Court of Judicial Magistrate No.VI, Tiruchirappalli and was ordered to be remanded to judicial custody till 23.07.2019. His remand order was extended till 28.08.2019. The Detaining Authority, on a perusal and consideration of the materials, has derived the subjective satisfaction that the activities of the detenu were prejudicial to the maintenance of the public peace and order and as such, branded him as a Goonda and detained him under the provisions of the Tamil Nadu Act 14 of 1982, by clamping the impugned order of detention and challenging the legality of the same, the present Habeas Corpus Petition is filed.

3. Though several grounds had been raised by the petitioner while challenging the impugned order of detention, when the matter is taken up for consideration today, learned Counsel for the petitioner submitted that in the booklet of papers furnished along with the detention order, page nos.32 to 34 (Accident Register Copy) & page nos.76 to 78 (Deposition of one Selvakumar) are not legible and translated copies of page nos.32 to 34 are not furnished to the detenu. Hence, the detenu had been prevented from making an effective representation against the impugned order of detention and prays for allowing this petition.

4. We have heard the learned Additional Public Prosecutor for the respondents and have also perused the documents placed on record.

5. As rightly pointed out by the learned Counsel for the petitioner, page nos.32 to 34 (Accident Register Copy) & page nos.76



to 78 (Deposition of one Selvakumar) of the booklet furnished along with the detention order are not legible and therefore, he was prevented from making an effective representation for revoking the impugned order of detention. In fact, it is the further contention of the detenu that the translated copy of page nos.32 to 34 are not furnished to him and therefore, his right in making an effective representation has been prevented.

6. In the considered opinion of this Court, the above said infirmity would vitiate the impugned order of detention and the same is accordingly, quashed. In fine, this Habeas Corpus Petition is allowed and the order of detention in C.No.21/Detention/C.P.O/T.C/2019 dated 20.08.2019, passed by the second respondent is set aside. The detenu, namely, Ismail, is directed to be released forthwith, unless his detention is required in connection with any other case.

Sd/-

Assistant Registrar (Records)

// True Copy //

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Sub Assistant Registrar(CS)

gk

To

- 1.The Principal Secretary to Government,
State of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St.George, Chennai - 600 009.
- 2.The Commissioner of Police,
Tiruchirappalli City,
Tiruchirappalli.
- 3.The Superintendent of Prison,
Central Prison, Tiruchirappalli.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
- 5.The Joint Secretary to Government,
Public(Law and Order) Department,
Secretariat , Chennai-9.

H.C.P. (MD) No.1358 of 2019

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