



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

and

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

H.C.P. (MD) No.114 of 2021

Manikandan @ Pei Mani

... Petitioner/Detenu

-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,
Madurai City,
Madurai.

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

... Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Habeas Corpus, calling for the entire records, connected with the detention order of the second respondent in No.01/BCDFGISSSV/2021, dated 04.01.2021 and quash the same and direct the respondents to produce the body or person of the detenu by name Manikandan @ Pei Mani, son of Chellapandi, aged about 28 years, now detained as "Goonda" at Madurai Central Prison, before this Court and set him at liberty forthwith.

For Petitioner : Mr.R.Alagumani

For Respondents : Mr.S.Ravi
Standing counsel for the State

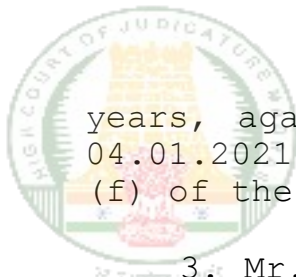
O R D E R

(Order of the Court was made by K.KALYANASUNDARAM, J.)

Heard Mr.R.Alagumani, learned counsel appearing for the petitioner and Mr.S.Ravi, learned Standing counsel appearing for the respondents and perused the materials available on record.

2. This habeas corpus petition has been filed by the detenu, namely, Manikandan @ Pei Mani, S/o. Chellapandi, aged about 28

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



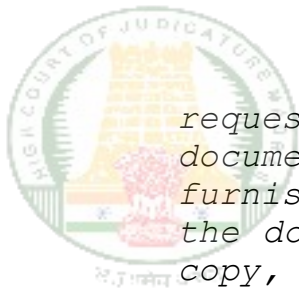
years, against the detention order in No.01/BCDFGISSSV/2021, dated 04.01.2021, branding him as "Goonda" as contemplated under Section 2 (f) of the Tamil Nadu Act 14 of 1982.

3. Mr.R.Alagumani, learned counsel appearing for the petitioner would argue that though the petitioner has raised several grounds, he has confined his arguments with regard to non-furnishing of documents, in violation of the judgment of the Hon'ble Apex Court in the case of **G.Kalaiselvi vs. The State of Tamil Nadu**, reported in **(2007) 5 CTC 657**. According to the learned counsel, the detenu surrendered before the Judicial Magistrate on 27.11.2020 and he was remanded to judicial custody till 02.12.2020. Police custody was sought for and granted from 07.12.2020 to 08.12.2020. But in between from 03.12.2020 to 07.12.2020, there was no material to show that the detenu was remanded. In the representation dated 16.01.2021, the remand extension order was sought for, but it was not furnished.

4. Per contra, Mr.S.Ravi, learned Standing counsel appearing for the State opposed this petition contending that the detenu was having 17 cases to his credit and the Detaining Authority, after satisfying with the materials placed by the Sponsoring Authority, has rightly passed the order of detention. According to the learned Standing counsel, there is no illegality or infirmity in the detention order. The learned Standing counsel has referred the counter affidavit filed by the second respondent, in support of his submissions.

5. From the perusal of the booklet at Page No.160, it is seen that the detenu had surrendered before the Judicial Magistrate No.I, Dindigul on 27.11.2020 and he was remanded to judicial custody till 02.12.2020. The order of the Judicial Magistrate No.II, Madurai, dated 07.12.2019, shows that police custody was sought for and granted from 07.12.2020 to 08.12.2020. But no other material to show that the remand of the detenu was extended from 03.12.2012 to 07.12.2020. In the representation, the detenu sought for the remand extension order, but it was not furnished and no explanation was given for non-furnishing of the order. The Full Bench of this Court in the above cited decision has observed as follows:-

"21.Law is well settled that the detaining authority is required to give copies of the relied upon documents along with grounds of detention and non-furnishing of relied upon document has the effect of vitiating the order of detention. (See 1999 SCC (Cr1.) 231 - Pownammal vs. State of Tamil Nadu and another). Where, however, a document is not relied upon, yet the detenu asks for copy of such document, which is either referred to or has got some bearing, it is the duty of the appropriate authority to furnish such copy or atleast indicate the reason why such copy is not supplied to the detenu inspite of specific



request by the detenu. As already indicated, where a document asked for is on the face of it irrelevant, non-furnishing of such document is immaterial. Where, however, the document has got some relevance, refusal to supply such copy, inspite of specific request, without any valid reason, may have the effect of vitiating the order of detention as the detenu is likely to be prejudiced, inasmuch as he would not be in a position to make an effective representation.

22. In the present case, in our opinion, when the detenu specifically asked for a copy of the remand order dated 30.03.2007, the appropriate authority should have either furnished copy of such order or furnished sufficient reasons as to why such order could not be furnished. On this ground, the order of detention is liable to be quashed."

6. Following the ratio laid down in the aforesaid decision and considering the facts of this case, the detention order is liable to be set aside. Accordingly, the Habeas Corpus Petition is allowed. The order of detention passed by the second respondent, in No.01/BCDFGISSSV/2021, dated 04.01.2021, is set aside. Consequently, the detenu, namely, Manikandan @ Pei Mani, S/o. Chellapandi, aged about 28 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.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2021

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,
State of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St. George, Chennai-600 009.

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



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

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

4.The Joint Secretary to Government,
Public(Law &Order),
Fort St. George,
Chennai 600 009.

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

H.C.P. (MD) No.114 of 2021
26.07.2021

RK (04.08.2021) 4P 6C