



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.03.2022

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Coram

The Honourable Mr. Justice P.N.PRAKASH
and
The Honourable Mr. Justice A.A.NAKKIRAN

H.C.P.No.1521 of 2021

Muniyammal

... Petitioner

Vs.

- 1.State of Tamil Nadu represented by
The Secretary to Government,
Department of Home, Prohibition and Excise,
Secretariat, Fort St.George,
Chennai.
- 2.The Commissioner of Police,
Greater Chennai,
Office of the Commissioner of Police,
Vepery,
Chennai - 7.
- 3.The Superintendent of Police,
Central Prison, Puzhal-II,
Puzhal, Chennai.
- 4.The Inspector of Police,
P-5, MKB Nagar Police Station,
Chennai.

... Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus to call for the records in Memo No.251/BCDFGISSSV/2021 passed by the 2nd respondent on 31.08.2021 on the file of the 2nd respondent and quash the same as illegal and consequently direct the respondents to produce the petitioner's son Ashokkumar @ Thoppai Ashok, son of Sekar, aged about 23 years, before this Court, who now detained in the Central Prison, Puzhal-II and set him at liberty.



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For Petitioner : Mr.C.Elumalai

For Respondents : Mr.R.Muniyapparaj,
Addl. Public Prosecutor

ORDER

[Order of the Court was made by P.N.PRAKASH, J.]

The petitioner is the mother of the detenu Ashokkumar @ Thoppai Ashok, son of Sekar, aged about 23 years. The detenu has been detained by the second respondent by his order in No.251/BCDFGISSSV/2021 dated 31.08.2021, holding him to be a "Goonda", as contemplated under Section 2(f) of Tamil Nadu Act 14 of 1982. The said order is under challenge in this Habeas Corpus Petition.

2. We have heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondents and we have also perused the records carefully.

3. Though learned counsel for the petitioner has raised several other grounds to assail the order of detention, he has mainly focused his argument on the ground that the detaining authority, while detaining the detenu, has not furnished the legible copies of the documents relied on by him. This deprived the detenu from making effective representation. Therefore, on this sole ground, the detention order is liable to be quashed.

4. On consideration of the submissions made on either side and upon perusal of the documents available on record, especially the seizure mahazar pertaining to a similar case at Page No.98 of the booklet, it is clear that the detaining authority, by providing illegible copies of the documents, has taken away the rights of detenu to effectively defend himself against his detention. Thus the impugned detention order is liable to be set aside on this ground.

In the result, the Habeas Corpus Petition is allowed and the order of detention in No.251/BCDFGISSSV/2021 dated



31.08.2021, passed by the second respondent is set aside. The detenu, viz., Ashokkumar @ Thoppai Ashok, son of Sekar, aged about 23 years, is directed to be released forthwith unless his detention is required in connection with any other case.

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SD/-
ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR

nsd
To

- 1.The Secretary to Government,
Department of Home, Prohibition and Excise,
Secretariat, Fort St.George,
Chennai.
- 2.The Commissioner of Police,
Greater Chennai,
Office of the Commissioner of Police,
Vepery,
Chennai - 7.
- 3.The Superintendent of Police,
Central Prison, Puzhal-II,
Puzhal, Chennai.
- 4.The Inspector of Police,
P-5, MKB Nagar Police Station,
Chennai.
- 5.The Joint Secretary to Government of Tamil Nadu,
Public, Law and Order Department,
Secretariat, Chennai - 9.
- 6.The Public Prosecutor,
High Court, Madras.

H.C.P.No.1521 of 2021

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