



H.C.P.No.130 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.09.2023

CORAM

THE HONOURABLE MR.JUSTICE **M.SUNDAR**
and
THE HONOURABLE MR.JUSTICE **R.SAKTHIVEL**

H.C.P.No.130 of 2023

Sri Devi

.. Petitioner

Vs

- 1.The State of Tamil Nadu
Rep. By its Secretary to the Government,
Prohibition and Excise Department,
Fort St. George, Chennai – 9.
- 2.The Commissioner of Police / Detaining Authority,
Coimbatore City.
- 3.The Superintendent of Police,
Central Prison, Coimbatore,
- 4.The Superintendent of Police,
Coimbatore District.
- 5.The Inspector of Police,
C2 Race Course Police Station,
Coimbatore City.

.. Respondents

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 relating to the petitioner's son's detention under Tamil Nadu

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Act 14 of 1982 vide detention order, dated 08.12.2022 on the file of the second respondent herein made in proceedings C.No.83/G/IS/2022, quash the same as illegal and consequently direct the respondent herein to produce the petitioner's son namely K.Sujithkumar, S/o.Kannan, aged 22 years, before this Court and set the petitioner's son at liberty from detention, who is now detained at Central Prison, Coimbatore.

For Petitioner : Mr.E.Kannadasan
for Mr.P.Narayana Prasadh
For Respondents : Mr.E.Raj Thilak
Additional Public Prosecutor

ORDER

[Order of the Court was made by **M.SUNDAR, J.,**]

This order will now dispose of captioned 'Habeas Corpus Petition' ['HCP' for the sake of brevity, convenience and clarity].

2. When the captioned HCP was listed for Admission on 31.01.2023, the following proceedings/order was made:



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M.SUNDAR, J.,

and

M.NIRMAL KUMAR, J.,

(Order of the Court was made by M.SUNDAR, J.,)

Captioned Habeas Corpus Petition has been filed in this Court on 06.01.2023 inter alia assailing a detention order dated 08.12.2022 bearing reference C.No.83/G/IS/2022 made by 'second respondent' [hereinafter 'Detaining Authority' for the sake of convenience and clarity]. To be noted, fifth respondent is the Sponsoring Authority.

2. Mother of the detenu is the petitioner.

3. Mr.K.S.Karthik Raja, learned counsel on record for habeas corpus petitioner is before us. Learned counsel for petitioner submits that ground case qua the detenu is for alleged offences under Sections 354A(1)(i) IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2002 in Crime No.505 of 2022 on the file of C2, Race Course Police Station, Coimbatore City.

4. The aforementioned detention order has been made on the premise that the detenu is a 'Sexual Offender' under Section 2(ggg) of 'The 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 No.14 of 1982)' [hereinafter 'Act 14 of 1982' for the sake of convenience and clarity].

5. The detention order has been assailed inter alia on the ground that there is a delay in considering the representation of the petitioner.

6. Prima facie case made out for admission. Admit. Issue Rule nisi returnable by four weeks.

7. Mr.R.Muniyapparaj, learned Additional Public Prosecutor, State of Tamil Nadu accepts notice for all respondents. '



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WEB COPY 3. The aforementioned proceedings/order dated 31.01.2023 captures all essentials i.e., essential facts imperative for appreciating this final order and therefore we are not setting out the facts again. Suffice to say that the aforementioned Admission Board order dated 31.01.2023 shall now be read as an integral part and parcel of the instant final order. This also means that the short forms, short references and abbreviations used in the aforementioned Admission Board order will continue to be used in the instant final order also.

4. Before we proceed further, we make it clear that 'detention order dated 08.12.2022 bearing reference C.No.83/G/IS/2022 made by the detaining authority' shall hereinafter be referred to as the 'impugned preventive detention order' for the sake of convenience and clarity.

5. Mr.E.Kannadasan, learned counsel on record for petitioner and Mr.E.Raj Thilak, learned Additional Public Prosecutor for all the respondents are before us.



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6. As would be evident from paragraph 5 of the Admission Board order at the time of admission, the point that there is delay in considering the representation of the petitioner was raised but today in the final hearing, Mr.E.Kannadasan, learned counsel representing the counsel on record for petitioner submitted that the remand order dated 17.11.2022 being the remand order in the ground case as well as in the adverse case had not been properly translated.

7. We had the benefit of perusing the grounds booklet. We find that one entire sentence in the remand order is missing in the translation. The remand order is a technical legal document. Therefore, two versions, remand order in English as made by the learned Magistrate and the Tamil version which reads differently would baffle the detenu is learned counsel's say. The consequence is detenu's right to make an effective representation qua impugned preventive detention order has been impaired is learned counsel's further say. This constitutional safeguard is ingrained in Article 22(5) of the Constitution of India and impairment of the same vitiates a preventive detention order as has been held by this Court repeatedly. This is one



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such case. Therefore, the impugned preventive detention order deserves to be dislodged in the habeas legal drill on hand.

8. Ergo, the sequitur is, captioned HCP is allowed. Impugned preventive detention order dated 08.12.2022 bearing reference C.No.83/G/IS/2022 made by the second respondent is set aside and the detenu Thiru.K.Sujithkumar, aged 22 years, Son of Thiru.Kannan, is directed to be set at liberty forthwith, if not required in connection with any other case / cases. There shall be no order as to costs.

(M.S.,J.) (R.S.V.,J.)
19.09.2023

Index : Yes/No
Neutral Citation : Yes/No
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P.S: Registry to forthwith communicate this order to Jail authorities in Central Prison, Coimbatore.

To

- 1.The Secretary to the Government,
Prohibition and Excise Department,
Fort St. George, Chennai – 9.
- 2.The Commissioner of Police / Detaining Authority,
Coimbatore City.

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- 3.The Superintendent of Police,
Central Prison, Coimbatore.
- 4.The Superintendent of Police,
Coimbatore District.
- 5.The Inspector of Police,
C2 Race Course Police Station,
Coimbatore City.
- 6.The Public Prosecutor,
High Court, Madras.



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**M.SUNDAR, J.,
and
R.SAKTHIVEL, J.,**

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