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HCP.No.1129 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.11.2023

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THE HONOURABLE MR . JUSTICE **S.S.SUNDAR**
AND
THE HONOURABLE MR. JUSTICE **SUNDER MOHAN**

H.C.P.No.1129 of 2023

Velanganni .. Petitioner

Vs.

- 1.The Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 9.
- 2.District Collector and District Magistrate of
Tirupathur District, Tirupathur.
- 3.The Superintendent of Police,
Tirupathur District, Tirupathur.
- 4.The Superintendent of Prison,
Central Prison, Vellore.
- 5.The Inspector of Police,
Tirupathur Taluk Police Station,
Tirupathur District.

.. Respondents

Petition filed under Article 226 of The Constitution of India praying for a Writ of Habeas Corpus to call for the records in connection with the order of detention passed by the second respondent dated 16.06.2023 in C3/D.O.No.13/2023 against the petitioner's husband Devan @ Devaraj, male, aged 46 years, S/o.Ethiraj, who is confined at Central Prison, Vellore and set aside



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the same and direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner : Mr.D.Balaji

For Respondents : Mr.E.Raj Thilak
Additional Public Prosecutor
assisted by Mr.C.Aravind

ORDER

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

The petitioner, wife of the detenu Devan @ Devaraj, has come forward with this petition challenging the detention order passed by the second respondent dated 16.06.2023 slapped on her husband, branding him as "Bootlegger" under 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 14 of 1982].

2. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the respondents.

3. Though several points have been raised in the petition, learned counsel for the petitioner submitted that forensic examination report found at page No.140 of the grounds booklet



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has not been properly translated and only a portion of the report has been translated. Learned counsel submits that the detention order is liable to be quashed on the sole ground that the detenu was furnished with a grounds booklet with incomplete translation of the vital document viz., forensic examination report.

4. It is seen that page No.140 of the grounds booklet furnished to the detenu contains the English version of the forensic examination report dated 02.06.2023. Translation of the said report at page no.141 of the grounds booklet is not complete and substantial part of the report has not been translated in Tamil. Furnishing incomplete translation of a vital document in vernacular language would deprive the detenu of making effective representation to the authorities against the order of detention.

5. In this context, it is useful to refer to the judgment of the Hon'ble Supreme Court in ***Powanammal Vs. State of Tamil Nadu*** reported in **(1999) 2 SCC 413**. The Hon'ble Supreme Court had occasion to deal with similar situation where in the Grounds of Detention referred to an order remanding the detenue therein to judicial custody was in English language. Since the Tamil version of the document was not supplied to the detenue therein, a specific



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issue was raised by the Hon'ble Supreme Court whether failure to supply Tamil version of the remand order passed in English, a language not known to the detenue therein, would vitiate the detenue's further detention. The Hon'ble Supreme Court, after discussing the safeguards embodied in Article 22(5) of the Constitution of India, observed that the detenue should be afforded an opportunity of making representation effectively against the Detention Order and that, the failure to supply every material in the language which can be understood by the detenue, is imperative. In the said context, the Hon'ble Supreme Court has held as follows:-

(1) Paragraphs 9 and 16 {as in SCC journal} read as follows:

"9.However, this Court has maintained a distinction between a document which has been relied upon by the detaining authority in the grounds of detention and a document which finds a mere reference in the grounds of detention. Whereas the non-supply of a copy of the document relied upon in the grounds of detention has been held to be fatal to continued detention, the detenu need not show that any prejudice is caused to him. This is because the non-supply of such a document would amount to denial of the right of being communicated the



grounds and of being afforded the opportunity of making an effective representation against the order. But it would not be so where the document merely finds a reference in the order of detention or among the grounds thereof. In such a case, the detenu's complaint of non-supply of document has to be supported by prejudice caused to him in making an effective representation. What applies to a document would equally apply to furnishing a translated copy of the document in the language known to and understood by the detenu, should the document be in a different language.

.....

16. For the above reasons, in our view, the non-supply of the Tamil version of the English document, on the facts and in the circumstances, renders her continued detention illegal. We, therefore, direct that the detenue be set free forthwith unless she is required to be detained in any other case. The appeal is accordingly allowed."

6. Thus, the detention order is vitiated on the ground of incomplete translation of the vital document in the vernacular language and hence, the same is liable to be quashed.



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7. In view of the aforesaid reason, the detention order passed by the second respondent dated 16.06.2023 in C3/D.O.No.13/2023, is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Devan @ Devaraj, S/o.Ethiraj, aged about 46 years, is directed to be set at liberty forthwith unless he is required in connection with any other case.

[S.S.S.R., J.] [S.M, J.]
17.11.2023

Index:Yes/No
Neutral Citation:Yes/No
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To

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- 6.The Public Prosecutor
High Court, Madras.



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AND
SUNDER MOHAN, J.,**

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