



H.C.P.No.2114 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.03.2023

CORAM

THE HONOURABLE MR.JUSTICE **M.SUNDAR**
and
THE HONOURABLE MR.JUSTICE **M.NIRMAL KUMAR**

H.C.P.No.2114 of 2022

Vijayakumari

.. Petitioner

Vs

- 1.State of Tamil Nadu
Rep. by The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George, Chennai – 600 009.
- 2.The District Collector and District Magistrate
of Chengalpattu District,
Office of the District Collector and District Magistrate,
Chengalpattu, Chengalpattu District.
- 3.The Superintendent of Police,
Chengalpattu, Chengalpattu District.
- 4.The Superintendent of Prison,
Central Prison, Puzhal,
Chennai 600 066.
- 5.The Inspector of Police,
Thirukazhukundram Police Station,
Chengalpattu District.

.. Respondents



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Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of habeas corpus to call for the records relating to the detention order passed in CPT.No.36/2022 dated 18.07.2022 passed by the 2nd respondent under the Tamil Nadu Act 14/1982 and set aside the same and direct the respondents to produce the petitioner's son viz., Sachin @ Divyaraj, S/o Selvaraj, aged about 22 years, now confined in Central Prison, Puzhal, Chennai, before this Court and set him at liberty.

For Petitioner	:	Mr.Ilayaraja Kandasamy for Mr.V.Arunkumar
For Respondents	:	Mr.R.Muniyapparaj Additional Public Prosecutor assisted by Mr.M.Sylvester John

ORDER

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

Captioned 'Habeas Corpus Petition' ['HCP' for the sake of brevity] has been filed by mother of detenu assailing a 'preventive detention order dated 18.07.2022 bearing reference CPT. No.36/2022'

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[hereinafter 'impugned detention order' for the sake of convenience and brevity]. To be noted, fifth respondent is the sponsoring authority and second respondent is the detaining authority as impugned detention order has been made by second respondent.

2. Impugned detention order has been made 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 No.14 of 1982)' [hereinafter 'Act 14 of 1982' for the sake of convenience and clarity] on the premise that the detenu is a 'Goonda' within the meaning of Section 2(f) of Act 14 of 1982.

3. There are two adverse cases. The ground case which is the sole substratum of the impugned detention order is Crime No.413 of 2022 on the file of Thirukazhukundram Police Station for alleged offences under Sections 294(b), 295(A), 285, 336, 307 and 506(ii) of 'The Indian Penal Code (45 of 1860)' [hereinafter 'IPC' for the sake of convenience and clarity]. Owing to the nature of the challenge to the



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impugned detention order, it is not necessary to delve into the factual matrix or be detained further by facts.

4. Mr.Ilayaraja Kandasamy, learned counsel representing counsel on record for petitioner and Mr.R.Muniyapparaj, learned State Additional Public Prosecutor assisted by Mr.M.Sylvester John, learned counsel, for all respondents are before us.

5. Though several grounds have been raised in the support affidavit, learned counsel for petitioner in the arguments at the time of hearing pivoted his campaign against the impugned detention order on one point and that one point turns on incorrect/improper translation. In the grounds of detention while referring to one of the two adverse cases viz., Crime No.202 of 2022 for alleged offences under Sections 341, 294(b), 323, 324, 506(ii) IPC read with Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2002, there is no mention about the filing of bail application and pendency of the same whereas in the Tamil version one paragraph has been added and the same reads as follows:



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'English Version:

In the meantime, the absconding accused Thiru.Sachin @ Divyaraj, aged 22, S/o.Selvaraj, residing at No.42, Salai Street, Nallathur Village, Aayapakkam Post, Thirukazhukundram Police Station on 27.06.2022 and remanded into judicial custody. The case is under investigation.

Tamil Version:

மேலும் இவர் மேற்படி வழக்கில் செங்கல்பட்டு மாவட்ட முதன்மை மற்றும் அமர்வு நீதிமன்றத்தில் 29.06.2022 அன்று ஜாமீன்மனு சி.ஆர்.எல்.எம்.பி. எண்.1736/2022 படி தாக்கல் செய்ததில் அந்த மனு நிலுவையில் உள்ளது.'

6. We remind ourselves of *Powanammal* case which also on facts arose out of the preventive detention case. In *Powanammal* case in similar circumstances i.e., similar fact situation, Honourable Supreme Court addressed to itself the issue of providing a detenu with translated copies in a language in which the detenu is conversant with and answered the same interalia by saying that it is imperative and not providing translated copy in a language which the detenu is conversant with vitiates preventive detention. *Powanammal* case i.e., **Powanammal Vs. State of Tamil Nadu** is reported in **(1999) 2 SCC 413** and the relevant paragraphs wherein the question which the



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Honourable Supreme Court addressed to itself and the manner in which the question was answered are paragraphs 6 and 16 which read as follows:

'6. The short question that falls for our consideration is whether failure to supply the Tamil version of the order of remand passed in English, a language not known to the detenue, would vitiate her further detention.

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. '

7. Applying *Powanammal* principle, we have no hesitation in saying that the impugned detention order in the case on hand deserves to be dislodged.

8. Apropos, the sequitur is, captioned HCP is allowed. Impugned detention order dated 18.07.2022 bearing reference CPT. No.36/2022 made by the second respondent is set aside and the detenu Thiru.Sachin @ Divyaraj male, aged 22 years, son of Thiru.Selvaraj is



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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.) (M.N.K.,J.)
15.03.2023

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, Puzhal, Chennai.
To

- 1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George, Chennai – 600 009.
- 2.The District Collector and District Magistrate
of Chengalpattu District,
Office of the District Collector and District Magistrate,
Chengalpattu, Chengalpattu District.
- 3.The Superintendent of Police,
Chengalpattu, Chengalpattu District.
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Central Prison,Puzhal, Chennai 600066.
- 5.The Inspector of Police,
Thirukazhukundram Police Station,
Chengalpattu District.
- 6.The Public Prosecutor,
High Court, Madras.

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and
M.NIRMAL KUMAR, J.,**

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