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H.C.P.No.2533 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.06.2023

Coram

THE HON'BLE MR.JUSTICE **M.SUNDAR**
and
THE HON'BLE MRS. JUSTICE **K. GOVINDARAJAN THILAKAVADI**

H.C.P.No.2533 of 2022

Priya

.. Petitioner

VS

The State rep. By

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Government of Tamil Nadu,
Fort St. George, Chennai – 9.
- 2.The District Collector and District Magistrate,
O/o. District Collector and District Magistrate,
Thiruvarur District, Thiruvarur.
- 3.The Superintendent of Prison,
Central Prison, Tiruchirappalli.
- 4.The Inspector of Police,
Thiruthuraipoondi Police Station,
Thiruthuraipoondi, Thiruvarur District.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of habeas corpus to call for the records pertaining to the order of detention dated 11.11.2022 passed by the second respondent bearing C.O.C. No.39/2022 and quash the same and produce the petitioner's husband Madhavan @ Madhavarajan, S/o.Sevanthan, aged about 37 years before this Court and set him at liberty forthwith from Central Prison, Tiruchirappalli.



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For Petitioner : Mr.R.Thirumoorthy
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 wife of detenu assailing a 'preventive detention order dated 11.11.2022 bearing reference C.O.C.No.39/2022' [hereinafter 'impugned detention order' for the sake of convenience and brevity]. To be noted, fourth 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.



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3. There is no adverse case. The ground case which is the sole substratum of the impugned detention order is Crime No.560 of 2022 on the file of Thiruthuraipoondi Police Station for alleged offences under Sections 147, 148, 294(b), 353, 332, 307 and 506(ii) of 'The Indian Penal Code (45 of 1860)' [hereinafter 'IPC' for the sake of convenience and clarity] and Section 3(1) of Tamil Nadu Property (Prevention of Damage and Loss) Act, 1992. Owing to the nature of the challenge to the impugned detention order, it is not necessary to delve into the factual matrix or be detained further by facts.

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

5. Though very many grounds have been raised in the support affidavit, learned counsel for petitioner at the hearing projected his argument in his challenge against the impugned detention order on one point and that point is not providing translated copy of a document relied on by the detaining authority in a language which the detenu is conversant with. Elaborating on the submission, learned counsel drew our attention to page No.33 of the booklet which is the arrest intimation



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form. No Tamil translation of this form has been furnished to the detenu.

6. As this turns on obtaining facts which are before us learned State Additional Public Prosecutor does not have much of a say.

7. Be that as it may we are informed that the literacy level of the detenu is very low and he is a school drop out. We are also informed that the detenu is conversant only with his mother tongue Tamil. We remind ourselves of Powanammal case i.e., **Powanammal Vs. State of Tamil Nadu**. The question which the Honourable Bench of the Supreme Court addressed to itself in a similar fact situation is captured in paragraph 6 and the manner in which a Honourable Bench of the Supreme Court answered this question is captured in paragraph 16. To be noted, Powanammal case is reported in **(1999) 2 SCC 413** and paragraphs 6 and 16 {as in SCC journal} 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



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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. '

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

9. Apropos, the sequitur is, captioned HCP is allowed. Impugned detention order dated 11.11.2022 bearing reference C.O.C. No.39/2022 made by the second respondent is set aside and the detenu Thiru.Madhavan @ Madhavarajan, aged about 37 years, son of Thiru.Sevanthan 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.) (K.G.T.,J.)
12.06.2023

Index : Yes / No
Neutral Citation : Yes / No
mmi

P.S: Registry to forthwith communicate this order to Jail authorities in Central Prison, Tiruchirappalli.



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To

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Home, Prohibition and Excise Department,
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- 2.The District Collector and District Magistrate,
O/o. District Collector and District Magistrate,
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- 4.The Inspector of Police,
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Thiruthuraipoondi, Thiruvarur District.
- 5.The Public Prosecutor
High Court, Madras.



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**M.SUNDAR, J.,
and
K. GOVINDARAJAN THILAKAVADI, J.,**

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