



H.C.P.(MD) Nos.1156 & 1160 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 12.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

AND

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

H.C.P.(MD)Nos.1156 & 1160 of 2022

N.Thangaduraichi

... Petitioner / Mother of the Detenu
in H.C.P.(MD)No.1156 of 2022

T.Sundari

... Petitioner / Mother of the Detenue
in H.C.P.(MD)No.1160 of 2022

Vs.

1.State of Tamil Nadu,

Rep. by the Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai- 600 009.

2.The District Collector and District Magistrate,
Tirunelveli District, Tirunelveli.

3.The Superintendent of Prison,
Central Prison, Palayamkottai
Tirunelveli.

...Respondents in both H.C.Ps.

COMMON PRAYER: Petitions filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, calling for the entire records



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connected with the detention orders of the 2nd respondent in M.H.S.Confdl.Nos.100 & 101 of 2022, dated 23.06.2022 and quash the same and direct the respondents to produce the body or person of the petitioner's son, namely, Esakkimuthu, S/o.Narayanaram, aged about 22 years, and the petitioner's son, namely, Chokkalingam, S/o.Thenkaraimuthu, aged about 24 years respectively, now, confining at Central Prison, Palayamkottai before this Court and set them at liberty forthwith.

For Petitioner : Mr.N.Pragalathan

For Respondents : Mr.A.Thiruvadi Kumar

Additional Public Prosecutor

COMMON ORDER

(Order of the Court was made by ***R.SURESH KUMAR, J.***)

The petitioners are the mothers of the detenues, namely, Esakkimuthu, S/o.Narayanaram, aged about 22 years and Chokkalingam, S/o.Thenkaraimuthu, aged about 24 years. The detenus have been detained by the 2nd respondent by his proceedings in M.H.S.Confdl.Nos.100 & 101 of 2022, dated 23.06.2022, holding them to be a "Goonda", as contemplated under Section 2(f) of Tamil Nadu Act 14 of 1982. The said orders are under challenge in these Habeas Corpus Petitions.



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2. These detenues were arrested in the ground case, which is a solitary case, on 27.05.2022 and 26.05.2022 respectively, followed by passing detention orders under Act 14 of 1982 on 23.06.2022.

3. In the ground case, there are seven accused, out of whom Act 14 of 1982 was slapped against the accused 2 to 6. Insofar as the accused 4 to 6 are concerned, that has been revoked subsequently. Therefore, the remaining two accused are A2 and A3 / the present detenues against whom the impugned detention orders have been passed. Challenging the same, the present Habeas Corpus Petitions have been filed.

4. Heard the learned counsel for the petitioners and the learned Additional Public Prosecutor for the respondents.

5. In the subjective satisfaction aspect, the detaining authority stated that if the detenues come out on bail they will indulge in further activities in future and it will be prejudicial to the maintenance of the public order.

6. In order to come to such conclusion, no other material whatsoever has been projected or considered on the side of the detaining authority, as the ground case is only a solitary case. Therefore, the



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statement made by the detaining authority that in future also these detenues will indulge in further activities, may not be justified, because there is no material to substantiate the same.

7.Hence, it can be easily construed that there has been non-application of mind on the part of the detaining authority. Therefore, these detenues are entitled to get the detention order to be quashed. In view of the above, the impugned detention orders passed by the 2nd respondent in M.H.S.Confdl.Nos.100 & 101 of 2022, dated 23.06.2022 can be set aside, accordingly, it is set aside. Hence, these Habeas Corpus Petitions are allowed. As a sequel, the 3rd respondent is hereby directed to set the detenues, namely, Esakkimuthu, S/o.Narayanaram, aged about 22 years and Chokkalingam, S/o.Thenkaraimuthu, aged about 24 years, at free, if their presence in the jail is not required for any other cases.

(R.S.K., J.) & (K.K.R.K, J.)

12.06.2023

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

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To

1. The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai- 600 009.
2. The District Collector and District Magistrate,
Tirunelveli District, Tirunelveli.
3. The Superintendent of Prison,
Central Prison, Palayamkottai
Tirunelveli.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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