



H.C.P(MD)No.1236 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 20.11.2023

Coram

THE HON'BLE MR.JUSTICE **M.SUNDAR**
and
THE HON'BLE MR. JUSTICE **R.SAKTHIVEL**

H.C.P(MD)No.1236 of 2023

Maragatham

.. Petitioner/Wife of the detenu

VS

1.State represented by,
The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai – 9.

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

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

.. Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Habeas Corpus calling for the records from the second respondent in M.H.S.Confdl.No.72/2023 dated 11.07.2023 by setting aside the said order of detention passed by the second respondent and setting the detenu Velladurai, Son of



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Shanmugam @ Shanmugaservai, aged about 45 years at liberty now detained in the Central Prison, Palayamkottai.

For Petitioner : Mr.K.Prabhu
For Respondents : Mr.A.Thiruvadi Kumar
Additional Public Prosecutor

ORDER

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

Captioned 'Habeas Corpus Petition' [hereinafter 'HCP' for the sake of convenience and clarity] was listed before us in the Admission Board on 11.10.2023 and a scanned reproduction of the same is as follows:



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M.SUNDAR, J.
and
R.SAKTHIVEI, J.

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

Captioned Habeas Corpus Petition has been filed in this Court on 04.09.2023 *inter alia* assailing a 'detention order dated 11.07.2023, bearing M.H.S.Couldl No.72 of 2023 [hereinafter 'impugned preventive detention order' for the sake of convenience, clarity and brevity] made by 'second respondent' [hereinafter 'Detaining Authority' for the sake of convenience].

2. To be noted, wife of the detenu is the petitioner.

3. Mr.K.Prabhu, learned counsel on record for petitioner is before us. Learned counsel for petitioner submits that ground case *qua* the detenu is for alleged offence under Section 392 of the Indian Penal Code, 1860 (Act 45 of 1860) [hereinafter 'IPC' for the sake of brevity] in Crime No.125 of 2023 on the file of Kalidaikurichi Police Station.

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4. The aforementioned impugned preventive detention order has been made on the premise that the detenu is a 'Goonda' under Section 2(f) of 'The Tamil Nadu Prevention of Dangerous Activities of Bondleggers, 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 impugned preventive detention order has been assailed *inter alia* on the ground that the copies of similar case bail application have not been furnished.

6. *Prima facie* case made out for admission. Admit. Issue *Rude nisi* returnable by four [4] weeks.

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7. Mr.A.Thiruvadi Kumar, learned State Additional Public Prosecutor accepts notice for all respondents. List the captioned Habeas Corpus Petition accordingly.

[MSJ-] [RSVJ-]
11.10.2023

ps.

2.The aforementioned 11.10.2023 Admission Board order captures all essentials ie., factual matrix in a nutshell and therefore, we are not setting out the same again in this final order. Suffice to say that aforementioned Admission Board order shall now be read as an integral part and parcel of this final order. This means that the short forms, short references and other references in the nature of abbreviations made in the Admission Board order will continue to be used in the instant final order also for the sake of convenience and clarity.

3.We now plunge into Habeas legal drill on hand.



4.As would be evident from the Admission Board order and more particularly paragraph 5 thereof at the time of Admission, learned counsel for petitioner has posited his challenge to the impugned preventive detention order on the ground that copy of similar case bail application had not been furnished to the detenu but today learned counsel changed his line of attack and predicated his campaign against impugned preventive detention order on the point that it does not pass muster as regards detenu 'acting in any manner prejudicial to the maintenance of public order' more particularly vide Section 2(a)(iii) of Act 14 of 1982 read with Section 2(f) of Act 14 of 1982.

5.In response to the aforementioned argument, learned Prosecutor drew our attention to a portion of paragraph 3 of the grounds of impugned preventive detention order which reads as follows:

'..... On seeing his daring acts of terror, the public who were standing near ran helter – skelter. Nearby shopkeepers closed their shops and ran away to save their lives and properties with fear and panic. The persons, who rode cycle and motor cycle, left them and ran with fear and panic.....'



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6. Adverting to the aforementioned portion in paragraph 3 of the grounds of impugned preventive detention order, learned Prosecutor submitted that aforementioned narrative in the impugned preventive detention order grounds would demonstrate that there was action prejudicial to maintenance of public order qua detenu.

7. We have carefully considered the rival submissions.

8. We find one important aspect of the matter, that important aspect of the matter is ground case as well as adverse case cited in impugned preventive detention order appears to be a family dispute or in other words a marital discord. To be noted, detenu Thiru. Vellaidurai is married to complainant Lakshmanan's sister. The ground case occurrence is on 14.06.2023 for an alleged offence under Section 392 of IPC, which is the punishment Section for the offence of robbery under Section 390 of IPC and the adverse case occurrence is on 04.05.2023 again under similar circumstances but for alleged offence under Section 307 of IPC though there is nothing to demonstrate that there was any



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injury to anyone. To put it differently, we find that ground case and adverse case which constitute a substratum of impugned preventive detention order pertain to certain altercation between detenu and his brother-in-law and father-in-law pertaining to some marital discord between detenu and his spouse.

9.Be that as it may, as regards the public order point ie., acting in any manner prejudicial to the maintenance of public order point, the same was dealt with by this Court in detail in ***V.Kalaiselvi Thangam's*** case [***V.Kalaiselvi Thangam Vs. The Additional Chief Secretary to Government*** reported vide Neutral Citation of Madras High Court being **2023/MHC/5092**]. We deem it appropriate to extract and reproduce the entire case law as reported in Neutral Citation of Madras High Court being **2023/MHC/5092** and a scanned reproduction of the same is as follows:



2023/MHC/5092

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H.C.P(MD)No.1008 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.11.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.SUNDAR

and

THE HONOURABLE MR.JUSTICE R.SAKTHIVEL

H.C.P(MD)No.1008 of 2023

V.Kalaiselvi Thangam

: Petitioner

Vs.

**1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai.**

**2.The Commissioner of Police,
Trunelveli City,
Tirunelveli.**

**3.The Superintendent of Prison,
Central Prison,
Palayamkottai,
Trunelveli.**

: Respondents

PRAYER: Habeas Corpus Petition is filed under Article 226 of the Constitution of India, calling for the entire records connected with the detention order in No.27/BCDFH/555V/2023 dated 04.05.2023 on the file of the second respondent and quash the same and direct the respondents to produce the detainee or body of the detainee namely the petitioner's husband

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H.C.P 942/99, 1608 of 2023

ie., Venkatesh, aged about 28 years S/o.Murugan, now detained at the Central Prison, Palayamkottai, before this Honble Court and set him at liberty forthwith).

For Petitioner : Mr.N.Pragalathan

For Respondents : Mr.A.Thiruvadi Kumar

Additional Public Prosecutor

ORDER

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

Captioned 'Habeas Corpus Petition' ['HCP' for the sake of brevity] was listed in the admission board on 11.08.2023 before a Hon'ble Predecessor Coordinate Division Bench and the following order was made in the admission board:



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2. Therefore, this Court deems it appropriate to set out factual matrix in a nut shell. To be noted, captioned HCP is now in the final hearing board. Mr.N.Pragalathan, learned counsel on record for petitioner and Mr.A.Thiruvadi Kumar, learned State Additional Public Prosecutor for all respondents are before us.

3. Factual matrix in a nut shell is that HCP petitioner's husband one Thiru.Venkatesh has been detained vide a Preventive Detention Order dated 04.05.2023 bearing reference No.27/BCDFGISSSV/2023 made by the second respondent [to be noted, '04.05.2023 preventive detention order' shall be referred to as 'impugned preventive detention order' and the 'second respondent' shall be referred to as 'detaining authority', both for the sake of convenience and clarity]; that impugned preventive 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 brevity, convenience and clarity] branding the HCP petitioner's husband ['HCP petitioner's husband' shall hereinafter be referred to as 'detenu' for the sake of convenience] as a 'Goonda' within the meaning of Section 2(f) of Act 14 of 1982; that captioned HCP has been filed in this Court on

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09.08.2023 and admitted on 11.08.2023 vide aforementioned admission board order [scanned and reproduced supra]; that captioned HCP is now in the final hearing board as already alluded to supra.

4.Mr.N.Pragalathan, learned Counsel for HCP petitioner in his campaign against the impugned preventive detention order submitted that the impugned preventive detention order has been made on the basis of a solitary case. It was pointed out that the solitary case is Crime No.196/2023 on the file of Melapalayam Police Station for alleged offences under Sections 341, 294(b), 324, 307, 506(ii) of 'The Indian Penal Code (45 of 1860)' [hereinafter 'IPC' for the sake of convenience and clarity] and Sections 3(1)(r), 3(1)(s), 3(2)(v) of 'the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (Act No.33 of 1989)' [hereinafter 'SC & ST (PoA) Act' for the sake of brevity and convenience] altered into Sections 341, 294(b), 324, 307, 506(ii), 120(B), 212 of IPC and Sections 3(1)(r), 3(1)(s) and 3(2)(v) of SC & ST (PoA) Act. It was submitted that as regards the ground case, the same is now pending vide S.C.No.116/2023 on the file II Additional District Judge's Court (Special Court for SC & ST cases), Tirunelveli, which means the regular law and order mechanism has been set into motion and is operating. In this scenario learned Counsel submitted that there is nothing to demonstrate that the detenu has acted in any manner prejudicial to maintenance of public order.

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5.In response to the aforementioned argument, learned State Prosecutor drew our attention to a portion of paragraph No.2(i) of the impugned preventive detention order where the detaining authority adverting to the solitary ground case has said "On seeing this incident those who were in the temple ran outside with huz and cry out of fear" This would demonstrate that detenuis acted in a manner prejudicial to maintenance of public order as learned Prosecutor's say

6.This Court carefully considered the rival submissions.

7.As regards 'law and order' and 'public order' the **Ram Manohar Lohia's** case the locus classicus. This celebrated judgment i.e., **Ram Manohar Lohia's** case reported in **AIR 1966 SC 740 [Ram Manohar Lohia Vs. State of Bihar and another]** is one where Hon'ble Supreme Court propounded three concentric circles doctrine. **Ram Manohar Lohia's** case has stood the test of time, it continues to be good law and to be noted, as it has been followed in **Mallada K Sri Ram Vs. The State of Telangana in CrI.A.No.561 of 2022 dated 04.04.2022**.

8.Three concentric circles doctrine propounded by Hon'ble supreme Court in **Ram Manohar Lohia's** case has been elucidated by adopting a illustrative approach. The relevant paragraphs have been extracted reproduced elsewhere in this order (as part of extract from **Panajalai's**

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case). Be that as it may, this **Ram Manohar Lohia** principle is instructive and we respectfully follow the same. When we apply the three concentric circles doctrine and illustration of the Hon'ble Supreme Court to the case on hand we find that the matter has not moved from the first larger concentric circle of 'law and order' to the next concentric circle of 'public order' as there is nothing to demonstrate that the detenu has engaged or is making preparations for engaging in any activities as a 'Goonda' which will adversely affect or is likely to affect adversely the maintenance of public order. The reason is, as already alluded to the impugned preventive detention order has been clamped by resorting to Act 14 of 1982 in which the term 'Goonda' has been defined vide Section 2(f) and the expression 'acting in a manner prejudicial to the maintenance of public order' has been defined vide 2(a) {2(a)(iii) is *qua* Goonda}, which read as follows:

Section 2. Definitions. - ...

2(f) "goonda" means a person, who either by himself or as a member of or leader of a gang, commits, or attempts to commit or abets the commission of offence punishable under Section 153 or Section 153-A under Chapter VIII or under Chapter XVI other than Sections 354, 376, 376-A, 376-B, 376-OC, 376-D and 377 or Chapter XVII or Chapter XXII of the Indian Penal Code, 1860 (Central Act 45 of 1860) or punishable under Section 3 or Section 4 or Section 5 of the Tamil Nadu Property (Prevention of Damage and Loss) Act, 1992 (Tamil Nadu Act 59 of 1992);

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2(a) "acting in any manner prejudicial to the maintenance of public order" means:

2(a)(i). ...

2(a)(ii). ...

2(a)(iii) in the case of a goonda, when he is engaged, or is making preparations for engaging, in any of his activities as a goonda, which affect adversely, or are likely to affect adversely, the maintenance of public order;'

9. We are acutely conscious of the obtaining position that a preventive detention order can be clamped on the basis of a solitary case but that it is clamped on the basis of a solitary case is not the point. There is no material to demonstrate that the detenu has acted in a manner prejudicial to the maintenance of public order is the point that enures to the benefit of detenu in the case on hand. The further reason is, other than the lone sentence in paragraph No.2(i) of impugned preventive detention order (pointed out by learned Prosecutor) which says that on the date of occurrence i.e., 14.04.2023 at the time of the incident, people who were in the temple ran outside with hue and cry out of fear, there is no other material to demonstrate that detenu has acted in a manner prejudicial to maintenance of public order much less within the meaning of Section 2(f) read with Section 2(a)(iii) of Act 14 of 1982.

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10.As regards the Habeas Corpus legal drill the law is well settled that in a habeas legal drill a habeas Court will address itself to the question as to whether the regular law and order machinery / mechanism is good enough for taking care of the scenario or if it is imperative to resort to preventive detention to contain the situation. If the answer is to the effect that regular law and order mechanism / machinery is good enough, the habeas legal drill will gravitate towards dislodging the preventive detention order. In this case, as already alluded to, the solitary ground case is now S.C.No.116/2023 on the file II Additional District Judge's Court (Special Court for SC & ST cases), Tirunelveli and there is nothing to demonstrate that this case is not good enough.

11.Learned Prosecutor, on instructions [instructed by Mr.J.Suresh Kumar, Special Sub-Inspector, Melapalayam Police Station] submits that in the trial Court charge sheet has been filed on 27.06.2023, within the mandatory prescribed period. If this be the position, the detenu will have to only seek regular bail under Section 439 of 'the Criminal Procedure Code, 1973' [hereinafter 'Cr.P.C' for the sake of brevity]. This also means that the position that regular law and order mechanism / machinery is good enough to contain the situation stands buttressed. To be noted, the detenu remains incarcerated and the detenu will be able to come out only if enlarged on bail by trial Court in a regular bail plea which will be decided on its own merits and in accordance with law by the trial Court untrammelled by this

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order which has been made for the limited purpose of testing the impugned preventive detention order in habeas legal drill on hand. This by itself buttresses the argument that the matter has not even gravitated towards the next smaller concentric circle of Public Order and it continues to perambulate in the larger concentric circle of Law and Order.

12.In **Panjalai's** case i.e., order dated 20.06.2023 in HCP No.23 of 2023, this bench sitting in the Principal Seat has set out the well sorted principles in habeas jurisprudence including public order point. Paragraph Nos.1, 9 to 12 are relevant and the same read as follows:

'The case on hand is a classic case for reminding ourselves about some of the well settled principles in Habeas Corpus jurisprudence and they are :

- (a) Preventive detention is not a punishment;*
- (b) Habeas Corpus is a high prerogative;*
- (c)The question which a Habeas Corpus Court will address itself to is whether normal law and order mechanism is good enough to contain the situation; and if the answer is in the affirmative preventive detention has to be interfered with;*
- (d)Whether public order is likely to be affected or has been affected is an adjunct question qua aforementioned question (previous point);*

.....
9.In this regard, this Bench deems it appropriate to remind itself of the law laid down by Hon-ble Supreme Court in the celebrated **Ram Manohar Lohia** case law [**Ram Manohar Lohia**

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vs. State of Bihar and another reported in AIR 1966 SC 740]. Relevant paragraphs are paragraphs 51 and 52 which read as follows:

'51. We have here a case of detention under Rule 30 of the Defence of India Rules which permits apprehension and detention of a person likely to act in a manner prejudicial to the maintenance of public order. It follows that if such a person is not detained public disorder is the apprehended result. Disorder is no doubt prevented by the maintenance of law and order also but disorder is a broad spectrum which includes at one end small disturbances and at the other the most serious and cataclysmic happenings. Does the expression "public order" take in every kind of disorder or only some? The answer to this serves to distinguish "public order" from "law and order" because the latter undoubtedly takes in all of them. Public order if disturbed, must lead to public disorder. Every breach of the peace does not lead to public disorder. When two drunkards quarrel and fight there is disorder but not public disorder. They can be dealt with under the powers to maintain law and order but cannot be detained on the ground that they were disturbing public order. Suppose that the two fighters were of rival communities and one of them tried to raise communal passions. The problem is still one of law and order but it raises the apprehension of public disorder. Other example can be imagined. The contravention of law always affects order but before it can be said to affect public order, it must affect the community or the public at large. A mere disturbance

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of law and order leading to disorder is thus not necessarily sufficient for action under the Defence of India Act but disturbances which subvert the public order are. A District Magistrate is entitled to take action under Rule 30(l)(b) to prevent subversion of public order but not in aid of maintenance of law and order under ordinary circumstances.

52.It will thus appear that just as "public order" in the rulings of this Court (earlier cited) was said to comprehend disorders of less gravity than those affecting "security of State", "law and order" also comprehends disorders of less gravity than those affecting "public order". One has to imagine three concentric circles. Law and order represents the largest circle within which is the next circle representing public order and the smallest circle represents security of State. It is then easy to see that an act may affect law and order but not public order just as an act may affect public order but not security of the State. By using the expression "maintenance of law and order" the District Magistrate was widening his own field of action and was adding a clause to the Defence of India Rules.'

10.The aforementioned two paragraphs in the celebrated Ram Manohar Lohia case law makes it clear that Hon-ble Supreme Court has laid down three concentric circles doctrine and the three concentric circles doctrine turns on law and order, public order and State security. By taking an illustrative approach, Hon-ble Supreme Court elucidated the clear and certain distinction between Law and Order & Public Order and as

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to when a particular matter would move from Law and Order larger circle to the public order smaller concentric circle.

11.Be that as it may, before proceeding further, we deem it appropriate to say that the aforementioned celebrated Ram Manohar Lohia judgment rendered half a century ago has stood the test of time as the same has been followed as recently on 04.04.2022 in an order made in Cri.A.No.561 of 2022 [Mallada K Sri Ram vs. The State of Telangana and others] authored by Hon-ble Justice Dr.Dhananjaya Y Chandrachud. Relevant paragraph is paragraph 12 and the same reads as follows:

“12.The distinction between a disturbance to law and order and a disturbance to public order has been clearly settled by a Constitution Bench in Ram Manohar Lohia v. State of Bihar, AIR 1966 SC 749. The Court has held that every disorder does not meet the threshold of a disturbance to public order; unless it affects the community at large. The Constitution Bench held:

“51. We have here a case of detention under Rule 30 of the Defence of India Rules which permits apprehension and detention of a person likely to act in a manner prejudicial to the maintenance of public order. It follows that if such a person is not detained public disorder is the apprehended result. Disorder is no doubt prevented by the maintenance of law and order also but disorder is a broad spectrum which includes at one end small disturbances and at the other the most serious and cataclysmic happenings. Does the expression ‘public order’ take in every kind of disorders or only some of them? The answer to this

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serves to distinguish 'public order' from 'law and order' because the latter undoubtedly takes in all of them. Public order if disturbed, must lead to public disorder. Every breach of the peace does not lead to public disorder. When two drunkards quarrel and fight there is disorder but not public disorder. They can be dealt with under the powers to maintain law and order but cannot be detained on the ground that they were disturbing public order. Suppose that the two fighters were of rival communities and one of them tried to raise communal passions. The problem is still one of law and order but it raises the apprehension of public disorder. Other examples can be imagined. The contravention of law always affects order but before it can be said to affect public order, it must affect the community or the public at large. A mere disturbance of law and order leading to disorder is thus not necessarily sufficient for action under the Defence of India Act but disturbances which subvert the 'public order' are. A District Magistrate is entitled to take action under Rule 30(1)(b) to prevent subversion of public order but not in aid of maintenance of law and order under ordinary circumstances.

52. It will thus appear that just as 'public order' in the rulings of this Court (earlier cited) was said to comprehend disorders of less gravity than those affecting 'security of State', 'law and order' also comprehends disorders of less gravity than those affecting 'public order'. One has to

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imagine three concentric circles. Law and order represents the largest circle within which is the next circle representing public order and the smallest circle represents security of State. It is then easy to see that an act may affect law and order but not public order just as an act may affect public order but not security of the State. By using the expression 'maintenance of law and order' the District Magistrate was widening his own field of action and was adding a clause to the Defence of India Rules.- (emphasis supplied)'

12.Reverting to **Ram Manohar Lohia** principle and the three concentric circles doctrine we find that it is a locus classicus in Habeas jurisprudence of matrimonial discord and an aggression on the part of one spouse as against the other has resulted in the unfortunate death of the victim. We are informed that the victim's brother is the detracio complainant.'

13.The principle that liberty is the very quintessence of a civilized society and it can be described as a groundnorm of a refined civilization has also been reiterated in **Panjalai's** case. We are informed that **Panjali's** case has attained finality.

14.There is another facet of **Panjalai's** case qua case on board. As would be evident from the extract supra relevant paragraphs of **Ram Manojar Lohia's** case law dealing with three concentric circles doctrine and the illustrative elucidation have been extracted and set out therein.

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15. In the light of the narrative thus far, the inevitable sequitur is, captioned HCP and the impugned preventive detention order are not matters which qualify as a case in which the detenu has acted in a manner prejudicial to maintenance of public order within the meaning of Section 2(a)(iii) r/w Section 2(f) of Act, 14 of 1982. The further sequitur is impugned preventive detention order becomes vitiated and vulnerable for being dislodged in this habeas legal drill.

16. Ergo, the sum sequitur is, captioned HCP is allowed. Impugned preventive detention order dated 04.05.2023 bearing reference No.27/BGDPGSISSSV/2023 made by the second respondent is set aside and the detenu Thiru.Venkalath, male, aged 28 years, son of Thiru.Murugan, 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.]

01.11.2023

Index : Yes

Internet : Yes

Neutral Citation - Yes

MR

P.S: Registry to forthwith communicate this order to jail authorities in Central Prison, Palayamkottai.

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To

1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai.

2.The Commissioner of Police,
Trunelveli City,
Trunelveli.

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

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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H.C.P(MD)No.1008 of 2023

M.SUNDAR, I

and

R.SAKTHIVEL, I

MR

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10.In *V.Kalaiselvi Thangam's* case, lone averment in the grounds of impugned preventive detention order has been extracted in different font in paragraph 5 thereat.

11.In the case on hand, the averments to which our notice was drawn by learned Prosecutor, contained in paragraph 3 of grounds of impugned preventive detention order are not very different. To put it differently, there is no material to show that public order has been put at peril or in other words there is no material to demonstrate that there is any action qua detenu which is prejudicial to maintenance of public order. The celebrated *Ram Manohar Lohia's* case [*Ram Manohar Lohia Vs. State of Bihar and another* reported in *AIR 1966 SC 740*] is one where Hon'ble Supreme Court propounded three concentric circles doctrine and the relevant portions have been extracted and dealt with in *V.Kalaiselvi Thangam's* case which has been reported in Netural Citation of Madras High Court being *2023/MHC/5092* and which has also been set out supra.



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12.We find that *V.Kalaiselvi Thangam's* case principle would apply in all force to the case on hand. This means that impugned preventive detention order is vitiated and it has become vulnerable for being dislodged in this habeas legal drill, as there is no material to demonstrate that detenu is acted in any manner prejudicial to the maintenance of public order much less any action in this regard within the meaning of Section 2(a)(iii) read with Section 2(f) of Act 14 of 1982.

13.Ergo, the sequitur is, captioned HCP is allowed. Impugned preventive detention order dated 11.07.2023 bearing reference M.H.S.Confdl.No.72/2023 made by the second respondent is set aside and the detenu Thiru.Velladurai, aged 45 years, son of Thiru.Shanmugam alias Shanmugaservai, 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.)
20.11.2023

Index : Yes/No
Neutral Citation : Yes/No
ps



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Post Script: (i) Registry to forthwith communicate this order to Jail authorities in Central Prison, Palayamkottai.

(ii) All concerned to act on this order being uploaded in official website of this Court without insisting on certified copies. To be noted, this order when uploaded in official website of this Court will be watermarked and will also have a QR code.

To

- 1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai – 9.
- 2.The District Collector and District Magistrate,
Tirunelveli District.
- 3.The Superintendent of Prison,
Central Prison,
Palayamkottai,
Tirunelveli District.
- 4.The Joint Secretary to Government,
Public (Law and Order) Department,
Secretariat,
Chennai.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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

ps

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20.11.2023