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HCP.No.224 of 2024

23IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.03.2024

CORAM :

THE HONOURABLE MR. JUSTICE M.S. RAMESH
AND
THE HONOURABLE MR. JUSTICE SUNDER MOHAN

H.C.P.No.224 of 2024

A.Suriya Gandhi

... Petitioner/mother of the detenue

Vs.

1.Government of Tamilnadu,
rep. by its
The Additional Secretary,
Home, Prohibition and
Excise Department,
Secretariat, Chennai-600 009.

2.The Commissioner of Police,
Greater Chennai.

3.The Superintendent of Prison,
Central Prison-II,
Puzhal, Chennai.

4.The Inspector of Police,
P-6, Kodungaiyur Police Station,
Chennai District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to



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issue a Writ of Habeas Corpus, calling for the records in detention order passed in Memo No.637/BCDFGISSSV/2023 dated 29.11.2023 on the file of the second respondent herein and quash the same and direct the respondents herein to produce the body of the petitioner's son viz., Thiru. Lawrence @ Vellai, M/A, 23 years, S/o.Arokkiyaraj, now confined at Central prison-II, Puzhal, Chennai before this Court and set him at liberty.

For Petitioner : Mr.D.Padmanabhan

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

ORDER

M.S.RAMESH, J.
AND
SUNDER MOHAN, J.

The petitioner herein, who is the mother of the detenu namely Lawrence @ Vellai, S/o.Arokkiyaraj, aged 23 years, now confined at Central prison-II, Puzhal, Chennai, has come forward with this petition challenging the detention order passed by the second respondent dated 29.11.2023 slapped on her son, branding him as "Goonda" under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Cyber Law Offenders, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic



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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, as well as the learned Additional Public Prosecutor appearing for the respondents.

3. Though several points have been raised by the learned counsel for the petitioner, it is stated that the detention order is liable to be quashed on the ground that the detenu was furnished with illegible copies in volume-II of the booklet. Hence, it is submitted that the detenu was deprived of making effective representation.

4. On a perusal of the Booklet, it is seen that Page Nos.6 and 38 in Volume-II of the booklet furnished to the detenue, are illegible. This furnishing of illegible copies of the vital document 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



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Supreme Court in '**Powanammal Vs. State of Tamil Nadu**' reported in '**(1999) 2 SCC 413**'. The Hon'ble Supreme Court, after discussing the safeguards embodied in Article 22[5] of the Constitution, observed that the detenu 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 detenu, is imperative. In the said context, the Hon'ble Supreme Court has held in Paragraphs 9 and 16 {as in SCC journal} 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



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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. In view of the ratio laid down by the Hon'ble Supreme Court and in view of the aforesaid facts, this Court is of the view that the detention order is liable to be quashed.

7. Hence, for the aforesaid reasons, the detention order passed by



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the second respondent on 29.11.2023 in No.637/BCDFGISSSV/2023, is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Lawrence @ Vellai, S/o.Arokkiyaraj, aged 23 years, now confined at Central prison-II, Puzhal, Chennai, is directed to be set at liberty forthwith, unless he is required in connection with any other case.

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

27.03.2024

Index: Yes/No
Internet: Yes/No
Neutral Citation: Yes/No

Anu



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To

1.The Additional Secretary,
Home, Prohibition and
Excise Department,
Secretariat, Chennai-600 009.

2.The Commissioner of Police,
Greater Chennai.

3.The Superintendent of Prison,
Central Prison-II,
Puzhal, Chennai.

4.The Inspector of Police,
P-6, Kodungaiyur Police Station,
Chennai District.

5.The Joint Secretary,
Law and Order Department,
Secretariat, Chennai.

6.The Public Prosecutor,
High Court, Madras.



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