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HCP.No.311 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.04.2024

CORAM :

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

H.C.P.No.311 of 2024

Meena

... Petitioner/wife of the detenu
Vs.

1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George, Chennai-600 009.

2.The Commissioner of Police,
O/o.the Commissioner of Police,
Chennai-600 0007.

3.The Superintendent,
Central Prison, Puzhal,
Chennai-600 066.

4.State rep by
The Inspector of Police,
K-2 Ayanavaram Police Station,
Chennai

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to
issue a Writ of Habeas Corpus, to call for the records relating to the
detention order passed by the second respondent in BCDFGISSSV No.629



HCP.No.311 of 2024

of 2023 dated 27.11.2023 against the petitioner's husband branding him as Goonda and quash the same and direct the respondent to produce the petitioner's husband, Babu, S/o.Parasuraman, aged about 35 years now confined at Central prison, Puzhal Chennai, before this Court and set him at liberty.

For Petitioner : Mr.A.Nirmal Kumar Sharma

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 is the wife of the detenu viz., Babu, S/o.Parasuraman, aged about 35 years, confined at Central prison, Puzhal Chennai, has come forward with this petition challenging the detention order passed by the second respondent dated 27.11.2023 slapped on her husband, branding him as "Goonda" 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



HCP.No.311 of 2024

[Tamil Nadu Act 14 of 1982].

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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.12 and 19 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 Supreme Court in '*Powanammal Vs. State of Tamil Nadu*' reported in



HCP.No.311 of 2024

WEB COPY

'(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 finds a reference in the order of detention or among the grounds thereof. In such a case, the detenu's complaint of non-



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HCP.No.311 of 2024

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 the second respondent on 27.11.2023 in BCDFGISSSV No.629 of 2023 is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Babu, S/o.Parasuraman, aged about 35 years, confined at Central



HCP.No.311 of 2024

prison, Puzhal Chennai, is directed to be set at liberty forthwith, unless he is required in connection with any other case.

WEB COPY

[M.S.R., J]

[S.M., J]

04.04.2024

Index: Yes/No

Internet: Yes/No

Neutral Citation: Yes/No

Anu

To

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Home, Prohibition and Excise Department,
Fort St.George, Chennai-600 009.

2.The Commissioner of Police,
O/o.the Commissioner of Police,
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HCP.No.311 of 2024

WEB COPY

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

7.The Public Prosecutor,
High Court, Madras.



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HCP.No.311 of 2024

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and
SUNDER MOHAN, J.

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H.C.P.No.311 of 2024

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