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H.C.P.No.340 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.02.2024

CORAM :

THE HONOURABLE MR. JUSTICE M.S.RAMESH

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

H.C.P.No.340 of 2024

Karthik

...Petitioner/son in law of the detenue

Vs.

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

2.The District Collector & District Magistrate,
Cuddalore District,
Cuddalore.

3.The Superintendent of Police,
Cuddalore,
Cuddalore District.

4.The Superintendent of Prison,
Special Prison for Women,
Vellore,
Vellore District.



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5.State rep. by its
The Inspector of Police,
PEW-Cuddalore Police Station,
Cuddalore District.

...Respondents

Prayer : Habeas Corpus Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Habeas Corpus, to call for the records, relating to the petitioner's mother in law detention under Tamil Nadu Act 14 of 1982 vide detention order, dated 17.10.2023 on the file of the second respondent herein made in proceedings Memo C3/D.O./64/2023, quash the same as illegal and consequently direct the respondents herein to produce the petitioner's mother in law namely, Renuga, W/o.Varadharaj, aged 56 years before this Court and set her at liberty from detention, now the petitioner's mother in law is detained at Special Prison for Women, Vellore.

For Petitioner : Mr.R.Sasikumar

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

ORDER

(Order of the Court was made by **M.S.RAMESH, J.**)

The petitioner, son-in-law of the detenu viz., Renuga, W/o.Varadharaj, aged 56 years, confined at Special Prison for Women, Vellore, has come



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forward with this petition challenging the detention order passed by the second respondent dated 17.10.2023 slapped on her mother-in-law, branding her as "BOOTLEGGERS" 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 14 of 1982].

2.Heard the learned counsel for the petitioner and 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 sole ground that the copy of an order passed under Section 3(2) of the Tamil Nadu Act 14 of 1982 in the Booklet furnished to the detenu has not been properly translated in the vernacular language. It is submitted by the petitioner's counsel that the detenu had been deprived of his valuable right of making an effective representation as against the impugned order of



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detention as the detenue is illiterate.

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4.It is seen from the Booklet furnished to the detenu that the copy of an order passed under Section 3(2) of the Tamil Nadu Act 14 of 1982 in the Booklet furnished to the detenue has not been properly translated in the vernacular language.

5. It is in the said circumstances, this Court finds that serious prejudice is caused to the detenu on account of improper translation in making effective representation against the Detention Order and that the Detention Order passed by the Detaining Authority is vitiated.

6.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 **(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-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



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to be detained in any other case. The appeal is accordingly allowed."

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

8.Accordingly, the detention order passed by the 2nd respondent in Memo C3/D.O./64/2023, dated 17.10.2023, is hereby set aside and the Habeas Corpus Petition is allowed. The detenu Renuga, W/o.Varadharaj, aged 56 years, confined at Special Prison for Women, Vellore, 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]
29.02.2024

Anu

Index : Yes / No

Neutral Citation : Yes / No



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