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H.C.P.No.874 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.06.2024

CORAM :

THE HONOURABLE MR. JUSTICE M.S.RAMESH

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

H.C.P.No.874 of 2024

V.Gowri

...Petitioner/mother of the Detenu

Vs.

1.The State of Tamil Nadu,
rep. by its Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai-600 009.

2.The Commissioner of Police,
Office of the Commissioner of Police,
Salem City,
Salem District.

3.The Superintendent of Central Prison,
Central Prison,
Salem District.

4.The Inspector of Police,
Shevapet Police Station,
Salem District.

...Respondents



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Prayer : Habeas Corpus Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Habeas Corpus, to direct the respondents to produce the body of the detainee by name, Joseph @ Balaji, S/o.Vincent aged 23 years, presently confined at Central Prison, Salem, before this Court and set him at liberty forthwith, after calling for the records pertaining to the detention order dated 19.12.2023 in C.M.P.No.116/Goonda/Salem City/2023 passed by the second respondent, quash the same.

For Petitioner : Mr.S.Bharanidharan

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 mother of the detainee viz., Joseph @ Balaji, S/o.Vincent aged 23 years, confined at Central Prison, Salem, has come forward with this petition challenging the detention order passed by the 2nd respondent dated 19.12.2023 slapped on her son, branding him as "GOONDA" under the Tamil Nadu Prevention of Dangerous Activities of



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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 detenu was furnished with a Booklet without the translated copy of the post-mortem report in the vernacular language, though other documents furnished are translated. 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 detention, since he has studied only upto 9th standard.

4.It is seen from the Booklet furnished to the detenu that the post-mortem report is in English and the translated version of this document in



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vernacular language has not been furnished to the detenu. This non furnishing of the vital document in vernacular language 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 (1999) **2 SCC 413**. The Hon'ble Supreme Court had occasion to deal with similar situation where in the Grounds of Detention referred to an order remanding the detenu therein to judicial custody was in English language. Since the tamil version of the document was not supplied to the detenu therein, a specific issue was raised by the Hon'ble Supreme Court whether failure to supply tamil version of the remand order passed in English, a language not known to the detenu therein, would vitiate the detenu's further detention. 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 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



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

6.Thus, the detention order is vitiated on the ground of non-furnishing of the vital documents in the vernacular language and hence, the same is liable to be quashed.

7.Accordingly, the detention order passed by the 2nd respondent in C.M.P.No.116/Goonda/Salem City/2023, dated 19.12.2023, is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Joseph @ Balaji, S/o.Vincent aged 23 years, 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]
06.06.2024

Anu
Index : Yes / No
Neutral Citation : Yes / No

To

1.The Secretary to Government,
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Fort St. George,
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4.The Inspector of Police,
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5.The Joint Secretary,
Law and Order Department,
Secretariat, Chennai.

6.The Public Prosecutor,
High Court, Madras.



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