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HCP.No.614 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.04.2024

CORAM :

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

H.C.P.No.614 of 2024

Latha

... Petitioner

Vs.

1.The Addl. Chief Secretary to the Government,
Government of Tamil Nadu,
(Home) Prohibition and Excise Dept.
Secretariat, Fort St.George,
Chennai – 600 009.

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

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

4.The Superintendent,
Central Prison,
Tiruchirapalli.



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5.The Inspector of Police,
Meensurutty Police Station,
Ariyalur.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, calling for the entire records connected with the order of the 2nd respondent herein in, Cr.M.P.No.10/2023 dated 15.07.2023 passed against the petitioner's brother of the detenu namely Thiru.Jothi, son of Mochakottai, aged about 42 years, who is confined at Central Prison, Tiruchirapalli and set aside the same, consequently, directing the respondents herein to produce the body and person of the detenu before this Hon'ble Court and set him at liberty forthwith.

For Petitioner	: M/s.R.Saritha
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 herein, who is the wife of the detenu Jothi, aged 42 years, S/o.Mochakottai, has come forward with this petition challenging the detention order passed by the second respondent dated 15.07.2023 slapped on



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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 [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 grounds are raised in the petition, the learned counsel for the petitioner submitted that though the Detaining Authority has referred to the order passed in a similar case in Crl.M.P.No.3724 of 2022, dated 21.09.2022, the translated copy of the order relied upon by the Detaining Authority has not been furnished to the petitioner in vernacular language, as seen from the Booklet. Since the petitioner is a cart-puller and illiterate, the learned counsel stated that serious prejudice has been caused to the petitioner in making effective representation.



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4. The above issue is already covered by the Hon'ble Supreme Court in the case of '**Powanammal Vs. State of Tamil Nadu**' reported in '**(1999) 2 SCC 413**', wherein, the Hon'ble Supreme Court has held that what applies to a document, would equally apply to furnishing translated copy of the document in the language known to and understood by the detenu. In the said judgment, the Hon'ble Supreme Court has further held as follows :

“6.The short question that falls for our consideration is whether failure to supply the Tamil version of the order of remand passed in English, a language not known to the detenue, would vitiate her further detention.....

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.”



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5. On a perusal of the Booklet, in particular, Page No.171, it is seen that the order relied upon by the Detaining Authority is in English and the translated copy of the said document is not furnished to the detenu for making effective representation. Since a specific stand has been taken that serious prejudice is caused to the petitioner, this Court finds that the failure to furnish translated copy of the order passed in the similar case also vitiates the Detention Order.

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. Accordingly, the detention order passed by the second respondent on 15.07.2023 in Cr.M.P.No.10/2023, is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Jothi, aged 42 years, S/o.Mochakottai, is



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

[M.S.R., J] [S.M., J]
03.04.2024

Index: Yes/No
Tsg

To

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6.The Public Prosecutor,
High Court, Madras.



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and
SUNDER MOHAN, J.

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