



HCP.No.856 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.06.2024

CORAM :

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

H.C.P.No.856 of 2024

J.Charles

... Petitioner

Vs.

1.The Additional Chief Secretary to Government of (Home),
Prohibition & Excise Department,
Chennai-600 009

2.The Commissioner of Police,
Greater Chennai, Vepery,
Chennai-600 007.

3.The Inspector of Police,
H-1 Washermenpet Police Station,
Chennai-600 021.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, to call for the records pertaining to the order of detention dated 18.11.2023 in detention order No.599/BCDFGISSSV/2023 passed by the respondents namely the



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Commissioner of Police, Greater Chennai and the Inspector of Police, H-1, Washermenpet Police Station, Chennai and direct the respondent to produce the body of the detenue namely Charles, son of Johnson presently detained in Central Prison, Puzhal, Chennai and set him at liberty.

For Petitioner : Ms.R.Priyanka

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 detenu viz., Charles, son of Johnson, presently detained in Central Prison, Puzhal, Chennai, has come forward with this petition challenging the detention order passed by the second respondent dated 18.11.2023 slapped on him, 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



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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 pointed out that the Detaining Authority has relied upon the stale cases pertaining to Crime No.728 of 2021 and Crime No.07 of 2022 in the grounds of detention furnished to the detenu. Therefore, the learned counsel submitted that the document relied upon by the Detaining Authority to detain the detenu, has no live and proximate connection with activities alleged to be prejudicial to maintenance of public order, and that there is no compelling necessity for detention. In support of his contentions, the learned counsel relied upon the judgment of the Hon'ble Supreme Court in '***Sama Aruna Vs. State of Telengana and others***' reported in '***(2018) 12 SCC 150***'.

4. The Hon'ble Supreme Court, in ***Sama Aruna's case (supra)***, has observed as follows :



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“22. We are of the view, that the detention order in this case is vitiated by taking into account incidents so far back in the past as would have no bearing on the immediate need to detain him without a trial. The satisfaction of the authority is not in respect of the thing in regard to which it is required to be satisfied. Incidents which are stale, cease to have relevance to the subject matter of the enquiry and must be treated as extraneous to the scope and purpose of the statute.

23. In this case, we find the authority has come to a conclusion so unreasonable that no reasonable authority could ever reach. A detaining authority must be taken to know both, the purpose and the procedure of law. It is no answer to say that the authority was satisfied. In T.A. Abdul Rahman v. State of Kerala and Ors. [(1989) 4 SCC 741], this Court observed, where the authority takes into account stale incidents which have gone by to seed it would be safe to infer that the satisfaction of the authority is not a genuine one.”

5. On perusal of the records of the booklet, this Court finds that the Detaining Authority has relied upon stale cases pertaining to Crime



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Nos.728 and 1238 of 2021 and Crime Nos.07, 408 and 664 of 2022. The incidents relied upon by the Detaining Authority would have no bearing on the need to detain the detenu. As held by the Hon'ble Supreme Court in *Sama Aruna's case (supra)*, incidents which are stale, cease to have relevance to the subject matter of the inquiry and must be treated as extraneous to the scope and purpose of the Statute.

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 vitiated and the same is liable to be quashed.

7. Accordingly, the detention order passed by the second respondent on 18.11.2023 in No.599/BCDFGISSSV/2023, is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Charles, son of Johnson, presently detained in Central Prison, 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]



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

Anu

To

1.The Additional Chief Secretary to Government of (Home),
Prohibition & Excise Department,
Chennai-600 009

2.The Commissioner of Police,
Greater Chennai, Vepery,
Chennai-600 007.

3.The Inspector of Police,
H-1 Washermenpet Police Station,
Chennai-600 021.

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

5.The Public Prosecutor,
High Court, Madras.



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