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HCP.No.759 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.07.2024

CORAM :

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

H.C.P.No.759 of 2024

Ramesh

... Petitioner

Vs.

1.State of Tamil Nadu,
Rep. by The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George,
Chennai – 600 009.

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

3.The Superintendent of Prison,
Central Prison, Puzhal,
Chennai – 600 066.

4.The Inspector of Police,
K-6, T.P. Chathiram 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



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detention order in No.151/BCDFGISSSV/2024 dated 01.03.2024 passed by the 2nd respondent under the Tamil Nadu Act 14 of 1982 and set aside the same and direct the respondents to produce the petitioner's son namely Rajeshkumar @ Kozhi Rajesh, Male, aged about 24 years, S/o.Ramesh, now confined in Central Prison, Puzhal, Chennai, before this Court and set him at liberty.

For Petitioner : Mr.A.Vinoth Kumar

For Respondents : Mr.A.Gokulakrishnan,
Additional Public Prosecutor

ORDER

M.S.RAMESH, J.
and
SUNDER MOHAN, J.

The petitioner herein, who is the father of the detenu namely Rajeshkumar @ Kozhi Rajesh, aged about 24 years, has come forward with this petition challenging the detention order passed by the second respondent dated 01.03.2024 slapped on his son, 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].



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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 grounds have been raised in this Habeas Corpus Petition, the learned counsel for the petitioner stated that the detention order is liable to be quashed on the ground that the detenu was furnished with illegible copy of Form No.91, list of property sent to Magistrate. Hence, it is submitted that the detenu was deprived of making effective representation.

4. On a perusal of the Booklet, it is seen that some portions in Form No.91 are not clear and that the said document is illegible. This furnishing of illegible copy 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 the case of '*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,



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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.



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..... **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. Accordingly, the detention order passed by the second respondent on 01.03.2024 in No.151/BCDFGISSSV/2024, is hereby set aside and the Habeas Corpus Petition is allowed. The detenue namely Rajeshkumar @ Kozhi Rajesh, aged about 24 years, S/o.Ramesh, is directed to be set at liberty forthwith, unless his confinement is required in connection with any other case.

[M.S.R., J] [S.M., J]
03.07.2024

Index: Yes/No
Neutral Citation: Yes/No

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M.S.RAMESH, J.
and
SUNDER MOHAN, J.

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To

1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
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Chennai – 600 009.

2.The Commissioner of Police,
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Vepery, Chennai – 600 007.

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5.The Public Prosecutor,
High Court, Madras.

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