



WEB COPY



H.C.P.No.828 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.04.2024

CORAM :

THE HONOURABLE MR. JUSTICE M.S.RAMESH

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

H.C.P.No.828 of 2024

Maheswari

...Petitioner / mother of the detenue

Vs.

1.The State of Tamil Nadu,
Rep. by its Secretary to Government,
Prohibition and Excise Department,
Fort St. George, Chennai-9.

2.The District Magistrate and District Collector,
Office of the District Collector,
Erode.

3.The Superintendent of Prison,
Central Prison,
Coimbatore.

4.The Superintendent of Police,
Superintendent of Police Office,
Erode.

5.The Inspector of Police,
Erode Town police Station, Erode.

...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 call for the entire records relating to the petitioner's son detention under Tamil Nadu Act 14 of 1982 vide detention order, dated 15.07.2023 on the file of the second respondent herein made in proceedings Memo Cr.M.P.No.15/Goonda/2023/C1, quash the same as illegal and consequently direct the respondents herein to produce the petitioner's son namely Tamil @ Tamilselvan, son of Dharmalingam, aged 29 years before this Court and set the petitioner's son at liberty from detention, now the petitioner's son detained at Central Prison, Coimbatore.

For Petitioner : Mr.Vengadesh Durai Raja V.K
for Mr.Deepanuday

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, mother of the detenu viz., Tamil @ Tamilselvan, son of Dharmalingam, aged 29 years, detained at Central Prison, Coimbatore, has come forward with this petition challenging the detention order passed by the 2nd respondent dated 15.07.2023 slapped on her son, branding him as "Goonda" under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic



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Offenders, Sand Offenders, Slum Grabbers and Video Pirates Act, 1982

WEB COURT [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 grounds are raised in the petition, the learned counsel for the petitioner contended that detention order cannot be legally sustained as the same has been passed without any authority.

3. By invoking powers conferred by Sub-Section (1) of Section 3 of the Tamil Nadu Act 14 of 1982, the detention order dated 15.07.2023 has been passed. In the said detention order, the Government had conferred powers on the detaining authority under Sub Section (2) of Section 3 of the said Act in G.O.(D) No.100, Home, Prohibition and Excise (XVI) Department, dated 12.04.2023. As per proviso to Section 3(2) of the Tamil Nadu Act 14 of 1982, such delegation of power shall not exceed three months period. Apparently, the detention order has been passed after the



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expiry of 3 months from 12.04.2023, the date on which the powers were delegated to the detaining authority. There is no reference in the detention order as to whether such a power has been extended after the expiry of three months. As such, consequential detention order has been passed without any authority and hence cannot be legally sustained.

4. In view of the aforesaid facts, this Court is of the view that the detention order is liable to be quashed.

5. Accordingly, the detention order passed by the 2nd respondent dated 15.07.2023 in Cr.M.P.No.15/Goonda/2023 C1, is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Tamil @ Tamilselvan, son of Dharmalingam, aged 29 years, detained at Central Prison, Coimbatore, 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]
29.04.2024

Anu

Index : Yes / No

Neutral Citation : Yes / No

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- 1.The Secretary to Government,
Prohibition and Excise Department,
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Office of the District Collector,
Erode.
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Central Prison,
Coimbatore.
- 4.The Superintendent of Police,
Superintendent of Police Office,
Erode.
- 5.The Inspector of Police,
Erode Town police Station,
Erode.
- 6.The Public Prosecutor,
High Court, Madras.
7. The Joint Secretary,
Law and Order Department,
Secretariat, Chennai.



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