



H.C.P.No.905 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.07.2024

CORAM :

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

H.C.P.No.905 of 2024

Sumathi

**.. Petitioner/
Mother of the detenue
Versus**

1. State of Tamil Nadu
Rep. by the Secretary,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai - 600 009.
2. The District Collector and District Magistrate,
Office of the District Collector and District Magistrate,
Coimbatore District.
3. The Superintendent of Police,
Coimbatore District.
4. The Superintendent of Prison,
Central Prison,
Coimbatore,
Coimbatore District.
5. The Inspector of Police,
Mettupalayam Police Station,
Coimbatore 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 call for the records relating to the detention order vide Cr.M.P.No.19/G/2024 dated 04.04.2024, passed by the second respondent and quash the same and direct the respondents herein to produce the petitioner's son namely Dilip, S/o.Manoharan, aged 19 years, (who is presently undergoing detention in the Central Prison, Coimbatore), before this Court and set him at liberty.

For Petitioner : Mr.N.Arun Kumar

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

ORDER

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

The petitioner herein is the mother of the detenue viz., Dilip, S/o.Manoharan, aged about 19 years, confined at Central Prison, Coimbatore, has come forward with this petition challenging the detention order passed by the second respondent dated 04.04.2024 slapped on her 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 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 ground that the detainee was furnished with illegible copy in volume-I of the booklet. Hence, it is submitted that the detainee was deprived of making effective representation.

4. On a perusal of the Booklet, it is seen that the complaint in the ground case in Page No.5 in Volume-I of the booklet furnished to the detainee, is illegible. This furnishing of illegible copy of the vital document would deprive the detainee 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, after discussing the safeguards embodied in Article 22[5] of the Constitution, observed that the detainee should be afforded an opportunity of making representation



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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



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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 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. Hence, for the aforesaid reasons, the detention order passed by the second respondent on 04.04.2024 in Cr.M.P.No.19/G/2024 is hereby set aside and the Habeas Corpus Petition is allowed. The detenue viz., Dilip, S/o.Manoharan, aged about 19 years, confined 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]**
24.07.2024



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Index : yes/no

Speaking order/Non-speaking order

Neutral Citation : yes/no

grs

Note :- Registry shall forthwith return the booklet containing the materials, on which, the Detaining Authority has placed reliance, to the petitioner/counsel for the petitioner with due acknowledgment.

To

1. The Secretary,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai - 600 009.
2. The District Collector and District Magistrate,
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3. The Superintendent of Police,
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5. The Inspector of Police,
Mettupalayam Police Station,
Coimbatore District.
5. The Public Prosecutor,
High Court of Madras.



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**M.S.RAMESH, J.
AND
SUNDER MOHAN, J.**

grs

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