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HCP.No.1292 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.08.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

H.C.P.No.1292 of 2024

Padmavathi

... Petitioner/wife of the detenue

Vs.

- 1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai-600 009.
- 2.The Commissioner of Police,
Greater Chennai,
Office of the Commissioner of Police (Goondas Section),
Vepery, Chennai – 600 007.
- 3.The Superintendent of Prisons,
Central Prison-II, Puzhal,
Chennai – 600 066.
- 4.The Inspector of Police,
Central Crime Branch -I,
Chennai – 600 007.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, to call for the records connected with the detention order of the 2nd respondent in No.506/BCDFGISSSV/2024



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dated 14.05.2024 and quash the same and direct the respondents to produce the body and person of detenu namely Dhanasekar S/o.Gopalakrishnan aged 49 years detained in Central Prison, Puzhal Chennai before this Court and set him at Liberty.

For Petitioner : Mr.R.Rajprabhu

For Respondents : Mr.E.Raj Thilak
Additional Public Prosecutor

ORDER

(Order of the Court was made by *S.M.SUBRAMANIAM, J.*)

The order of detention passed by the 2nd respondent in proceedings No.506/BCDFGISSSV/2024 dated 14.05.2024 is sought to be quashed in the present Habeas Corpus Petition.

2.The documents supplied to the detenu are improperly paginated and even the index is not tallied with the documents furnished to the detenu. There is a total carelessness in preparing the typed set of papers by the Detaining Authority, which caused prejudice to the interest of the detenu to submit effect representation. The manner in which the typed set of papers served on the detenu cannot be appreciated in view of the



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confusion in the index as well as in pagination. Thus, the detainee has been prevented from submitting effective representation, which is a valuable right.

3. 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 effectively against the Detention Order and that, the failure to supply every material in the language which can be understood by the detainee, 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



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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.

..... **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.”*

4. In view of the ratio laid down by the Hon'ble Supreme Court and



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

5. Hence, for the aforesaid reason, the detention order passed by the second respondent in proceedings No.506/BCDFGISSSV/2024 dated 14.05.2024 is quashed and the Habeas Corpus Petition is **allowed**. The detenue viz., Dhanasekar S/o.Gopalakrishnan aged 49 years detained in Central Prison, Puzhal Chennai, is directed to be set at liberty forthwith, unless he is required in connection with any other case.

[S.M.S., J.]

[V.S.G., J.]

14.08.2024

Index: Yes/No

Internet: Yes/No

Neutral Citation: Yes/No

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AND
V.SIVAGNANAM, J.

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To

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- 5.The Public Prosecutor,
Madras High Court.

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