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HCP.No.1409 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :12.08.2024

CORAM :

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

**H.C.P.No.1409 of 2024**

Saraswathy

... Petitioner

***Vs.***

1.The State of Tamil Nadu,  
Represented by Secretary to Government,  
Prohibition & Excise Department,  
Fort St.George,  
Chennai – 600 009.

2.The District Collector and Magistrate,  
Cuddalore,  
Cuddalore District.

3.The Superintendent of Prison,  
Central Prison,  
Cuddalore District.

4.The Superintendent of Police,  
Cuddalore,  
Cuddalore District.

5.The Inspector of Police,  
Prohibition Enforcement Wing,  
Chidambaram.

... Respondents



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**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 detention order dated 28.05.2024 passed by the 2<sup>nd</sup> respondent in the proceedings in No.C3/D.O/45/2024 in respect of TPDA No.4214 and to quash the same, consequently direct the respondents herein to produce the detenue before the Court and set the detenue petitioner's husband namely Thiru.Rajapandiyan son of Kaliyamoorthy aged about 55 years, who is presently undergoing detention in Central Prison, Cuddalore and set him at liberty forthwith.

For Petitioner : Mr.S.Kasirajan

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 2<sup>nd</sup> respondent in proceedings No.C3/D.O/45/2024 in respect of TPDA No.4214, dated 28.05.2024 is sought to be quashed in the present Habeas Corpus Petition.

2.The requisition for remand made by the investigating officer, which was relied on by the detaining authority, though served to the detenue, found to be illegible. That apart, the nature of adverse cases considered by the detaining



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authority would also reveal that there is no breach of public order exist as amplified by the detaining authority in the impugned order.

3. In view of the fact that illegible documents were served, the detainee has been deprived of submitting effective representation, which is a mandate under the statute.

4. 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*



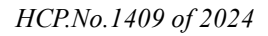
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*detention. Whereas the non-supply of a copy of the document relied upon in the grounds of detention has been held to be fatal to continued detention, the detenu need not show that any prejudice is caused to him. This is because the non-supply of such 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.*

*..... **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.”*





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**S.M.SUBRAMANIAM, J.**  
**AND**  
**V.SIVAGNANAM, J.**

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To

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