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HCP.No.1983 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.08.2024

CORAM :

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

H.C.P.No.1983 of 2024

Maruthamalai

... Petitioner

Vs.

1.The Government of Tamil Nadu,
Rep. By its Secretary,
Home, Prohibition, Excise Department,
Secretariat, Chennai – 600 009.

2.The District Collector cum District Magistrate,
Villuppuram District, Villupuram.

3.The Superintendent of Police,
Villuppuram District.

4.The Superintendent, Central Prison, Cuddalore.

5.The Inspector of Police,
Mailam Police Station, Villupuram District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, direct the Respondent to produce the detainee Maruthamalai, S/o.Elumalai, Male aged about 25 years, before this Court now confined at Central Prison, Cuddalore and set him at liberty by



HCP.No.1983 of 2024

setting aside the detention order passed in RC.No.C2/3/2024/Villupuram/2024 dated 28.02.2024 and pass such further order or orders as this Court may deem fit and proper in the circumstances of the case and render justice.

For Petitioner : Mr.M.Muthukumar

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 RC.No.C2/3/2024/Villupuram/2024 dated 28.02.2024 is sought to be quashed in the present Habeas Corpus Petition.

2.The list of property sent to the learned Magistrate, which is enclosed in Pg.Nos.30 and 31 in the typed set of papers relied by the Detaining Authority, furnished to the detenue are illegible. In view of the fact that illegible documents were served, the detenue has been deprived of submitting effective representation, which is a mandate under the statute.

3. In this context, it is useful to refer to the judgment of the Hon'ble



HCP.No.1983 of 2024

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 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



WEB COPY



HCP.No.1983 of 2024

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 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 RC.No.C2/3/2024/Villupuram/2024 dated 28.02.2024 is quashed and the Habeas Corpus Petition is **allowed**. The detenue viz., Maruthamalai, S/o.Elumalai, Male aged about 25 years



HCP.No.1983 of 2024

the detainee, now confined in Central Prison, Cuddalore 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.]

28.08.2024

Index: Yes/No

Internet: Yes/No

Neutral Citation: Yes/No

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To

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- 2.The District Collector cum District Magistrate,
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WEB COPY



HCP.No.1983 of 2024

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

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5.The Inspector of Police,
Mailam Police Station, Villupuram District.

6.The Public Prosecutor,
Madras High Court.

H.C.P.No.1983 of 2024

28.08.2024