



WEB COPY



HCP.No.2088 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.09.2024

CORAM :

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

H.C.P.No.2088 of 2024

Megavarthini

... Petitioner

Vs.

1. The State of Tamil Nadu,
Rep by its Secretary to Government,
Home Prohibition and Excise Department,
Fort St.George, Chennai – 9.
2. The District Magistrate and District Collector,
Collectorate, Namakkal,
Namakkal District.
3. The Superintendent of Police,
Office of the Superintendent of Police,
Namakkal, Namakkal District.
4. The Superintendent of Prison,
Central Prison, Salem 636 007.
5. State, rep by the Inspector of Police,
Molasi Police Station,
Namakkal District.
(Crime No.62 of 2024)

... 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 entire records leading to the detention of petitioner's husband the detenu Thiru.Chinnathambi @ Rangasamy, aged 31 years, son of Rangappa Naicker, 4/4-3 Akkamapalayam, Andipalayam Emapallipost, Tiruchengode Taluk, Namakkal District, presently detained in Central Prison, Salem under Act 14/1982, branded as Goonda vide the detention order dated 08.07.2024, in C.M.P.No.36/ Goonda / 2024 (M1) on the file of the 2nd Respondent herein directing to produce the person of body of the detenu before this Court and thereafter set him at liberty from the Central Prison, Salem.

For Petitioner : Mr.B.Vasudevan
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 second respondent in C.M.P.No.36/ Goonda / 2024 (M1), dated 08.07.2024, is sought to be quashed in the present Habeas Corpus Petition.

2.Translation of Form 59 issued under Section 167 Cr.P.C. was improperly done. Since the said document has not been translated and furnished to the detenu in the language known to him, the detenu is deprived of submitting an effective representation, which is a valuable right provided to the detenu under Act 14 of 1982.



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3.The issue regarding serving of translated version of the documents in the preventive detention order has been dealt with by the Three Judges Bench of the Hon'ble Supreme Court of India in the case of ***Powanammal Vs. The State of Tamil Nadu and others reported in 1999 2 SCC 413***. The Apex Court held that non supply of the copy of the documents relied on in the grounds of detention has been held to be fatal to continued detention, the detenue need not show that any prejudice is caused to him. This is because 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. The Court further reiterated that what applies to a document, would equally apply to furnishing translated copy of the document in the language known to and understood by the detenu, should the document be in a different language. The Apex Court had not made any distinction between non serving of a document and the translated copy of the document in the known language of the detenu.

4.In view of the said judgment of the Apex Court, the present Habeas Corpus Petition has to be considered. Consequently, the impugned order of detention in C.M.P.No.36/ Goonda / 2024 (M1), dated 08.07.2024, is quashed and



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the Habeas Corpus Petition stands **allowed**. The detenue,

namely, Thiru. Chinnathambi @ Rangasamy, aged 31 years, son of Rangappa Naicker, now confined in Central Prison, Salem, is directed to be set at liberty forthwith unless he is otherwise required in connection with any other case.

[S.M.S., J.] [V.S.G., J.]

11.09.2024

sli

Index : Yes/No
Speaking Order : Yes/No
Neutral Citation : Yes/No

To

1. The State of Tamil Nadu,
Rep by its Secretary to Government,
Home Prohibition and Excise Department,
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6. The Public Prosecutor,
High Court, Madras.

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