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H.C.P.No.1918 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.08.2024

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

H.C.P.No.1918 of 2024

Thilothini

... Petitioner

Vs.

1.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Fort St. George,
Chennai – 600 009.

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

3.The Superintendent of Police,
Tiruvallur, Tiruvallur District.

4.The Superintendent of Prison,
Central Prison – II, Puzhal,
Chennai District.

5.State rep. by its
The Inspector of Police,
Tiruttani Police Station,
Tiruvallur District.

... Respondents



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Prayer: Habeas Corpus Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Habeas Corpus, to call for the entire records, relating to the petitioner's husband detention under Tamil Nadu Act 14 of 1982 vide detention order, dated 19.07.2024 on the file of the 2nd respondent herein made in proceedings Memo B.C.D.F.G.I.S.S.S.V.No.25/2024, quash the same as illegal and consequently direct the respondents herein to produce the petitioner's husband namely Prakash @ Vikki, S/o.Babu, aged 24 years before this High Court and set the petitioner's husband at liberty

For Petitioner : Mr.R.Sasikumar

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 Memo B.C.D.F.G.I.S.S.S.V.No.25/2024 dated 19.07.2024 is sought to be quashed in the present Habeas Corpus Petition.

2. Heard the learned counsel for the petitioner, as well as the learned



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Additional Public Prosecutor appearing for the respondents.

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3. The learned counsel for the petitioner would submit that the Detaining Authority has relied on one adverse case registered by the Tiruttani Police Station in Crime No.1428 of 2020 under Sections 341, 302, 34 IPC. It is the stale case relied on for the purpose of branding the detenue as goonda. The ground case would also insufficient for the purpose of invoking act 14 of 1982. Therefore, the document relied upon by the Detaining Authority to detain the detenu, has no live and proximate connection with activities alleged to be prejudicial to maintenance of public order, and that there is no compelling necessity for detention.

4. The Hon'ble Supreme Court, in the case of ***Sama Aruna vs. State of Telengana and Others***¹, has observed as follows :

“22. We are of the view, that the detention order in this case is vitiated by taking into account incidents so far back in the past as would have no bearing on the immediate need to detain him without a trial. The satisfaction of the authority is

1. (2018) 12 SCC 150



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not in respect of the thing in regard to which it is required to be satisfied. Incidents which are stale, cease to have relevance to the subject matter of the enquiry and must be treated as extraneous to the scope and purpose of the statute.

23.*In this case, we find the authority has come to a conclusion so unreasonable that no reasonable authority could ever reach. A detaining authority must be taken to know both, the purpose and the procedure of law. It is no answer to say that the authority was satisfied. In T.A. Abdul Rahman v. State of Kerela and Ors. [(1989) 4 SCC 741] , this Court observed, where the authority takes into account stale incidents which have gone by to seed it would be safe to infer that the satisfaction of the authority is not a genuine one.”*

5. However, this Court is of the considered opinion that the stale case relied on to invoke the Act 14 of 1982 is also a ground to set aside the order impugned. The other ground case is capable of being proceeded under the law of land and therefore, the preventive detention is unnecessary and there is no proper application of mind on the part of the Detaining Authority. As



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held by the Hon'ble Supreme Court in *Sama Aruna's case (supra)*, incidents which are stale, cease to have relevance to the subject matter of the inquiry and must be treated as extraneous to the scope and purpose of the Statute.

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 vitiated and the same is liable to be quashed.

7. Hence, for the aforesaid reason, the Detention Order passed by the 2nd respondent in B.C.D.F.G.I.S.S.V.No.25/2024 dated 19.07.2024 is quashed and the Habeas Corpus Petition is allowed. The detinue viz., Prakash @ Vikki S/o.Babu aged about 24 years, who is confined at Central Prison-II, 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.]
27.08.2024

Jeni
Index : Yes
Speaking order
Neutral Citation : Yes



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To

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Fort St. George,
Chennai – 600 009.
- 2.The District Magistrate and District Collector,
Tiruvallur District,
Tiruvallur.
- 3.The Superintendent of Police,
Tiruvallur, Tiruvallur District.
- 4.The Superintendent of Prison,
Central Prison – II, Puzhal,
Chennai District.
- 5.The Inspector of Police,
State,
Tiruttani Police Station,
Tiruvallur District.
- 6.The Public Prosecutor,
Madras High Court.



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and
V.SIVAGNANAM, J.

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