



HCP.No.1926 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.08.2024

CORAM :

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

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Selvam @ Olai Selvam

.... Petitioner

Vs.

1. The State of Tamil Nadu,
Rep. by the Additional Chief Secretary,
Home, Prohibition and Excise Department,
Fort St.George, Chennai - 600 009.
2. The Commissioner of Police,
Greater Chennai,
Vepery, Chennai – 600 007.
3. The Inspector of Police,
G-1 Vepery Police Station, Chennai.
4. The Superintendent of Prison,
Central Prison II, Puzhal, Chennai 600 066.

.... Respondents

PRAYER: Petition filed under Article 226 of Constitution of India to issue a Writ of Habeas Corpus to call for the records relating to the detention order in Memo No.647/BCDFGISSSV/2024 dated 08.06.2024 passed by the second respondent under the Tamil Nadu Act 14 of 1982 and set aside the same and direct the respondent to produce the petitioner Thiru.Selvam @ Olai Selvam S/o.Easu, aged about 48 years, the detainee, now confined in Central Prison, Puzhal, Chennai before this Court and set the petitioner Thiru.Selvam @ Olai Selvam S/o.Easu, aged about 48 years, the detainee herein at liberty.

For Petitioner

: Mr.R.Muthukumar



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

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ORDER

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

The order of detention passed by the second respondent in Memo No.647/BCDFGISSSV/2024 dated 08.06.2024, is sought to be quashed in the present Habeas Corpus Petition.

2.The ground case relied on by the detaining authority was registered by G-1, Vepery Police Station in crime No.155/2024, under Section 341, 294 (b) & 307 IPC.

3.The learned Additional Public Prosecutor would rely on the impugned detention order by stating that in the ground case, the detenu committed the alleged offence in the public, in a busy road cum residential and business area and in the busy night time, he had created an alarm and a feeling of insecurity in the minds of the people of that area. He further submitted that there is no adverse case against the detenue.

4.With reference to that reasons, this Court is of the considered opinion that the alleged offence had been committed during the night time. Moreso, it seems



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that to settle score with the enemy, the alleged offence had been committed. Thus, it is individual centric and cannot be construed as an offence causing public disorder. Certain individual crimes committed to settle score cannot be relied for the purpose of invoking Act 14 of 1982. The ground case would be in sufficient to form an opinion that there is likelihood of causing breach of public order as laid down by the Supreme Court in the case of **Ram Manohar Lohia v. State of Bihar** reported in [AIR 1966 SC 740]. The relevant portion is extracted hereunder:

“12. The distinction between a disturbance to law and order and a disturbance to public order has been clearly settled by a Constitution Bench in Ram Manohar Lohia v. State of Bihar, AIR 1966 SC 740. The Court has held that every disorder does not meet the threshold of a disturbance to public order, unless it affects the community at large. The Constitution Bench held:

“51. We have here a case of detention under Rule 30 of the Defence of India Rules which permits apprehension and detention of a person likely to act in a manner prejudicial to the maintenance of public order. It follows that if such a person is not detained public disorder is the apprehended result. Disorder is no doubt prevented by the maintenance of law and order also but disorder is a broad spectrum which



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includes at one end small disturbances and at the other the most serious and cataclysmic happenings. Does the expression “public order” take in every kind of disorders or only some of them? The answer to this serves to distinguish “public order” from “law and order” because the latter undoubtedly takes in all of them. Public order if disturbed, must lead to public disorder. Every breach of the peace does not lead to public disorder. When two drunkards quarrel and fight there is disorder but not public disorder. They can be dealt with under the powers to maintain law and order but cannot be detained on the ground that they were disturbing public order. Suppose that the two fighters were of rival communities and one of them tried to raise communal passions. The problem is still one of law and order but it raises the apprehension of public disorder. Other examples can be imagined. The contravention of law always affects order but before it can be said to affect public order, it must affect the community or the public at large. A mere disturbance of law and order leading to disorder is thus not necessarily sufficient for action under the Defence of India Act but disturbances which subvert the public order are. A District Magistrate is entitled to take



action under Rule 30(1)(b) to prevent subversion of public order but not in aid of maintenance of law and order under ordinary circumstances.

52. It will thus appear that just as “public order” in the rulings of this Court (earlier cited) was said to comprehend disorders of less gravity than those affecting “security of State”, “law and order” also comprehends disorders of less gravity than those affecting “public order”. One has to imagine three concentric circles. Law and order represents the largest circle within which is the next circle representing public order and the smallest circle represents security of State. It is then easy to see that an act may affect law and order but not public order just as an act may affect public order but not security of the State. By using the expression “maintenance of law and order” the District Magistrate was widening his own field of action and was adding a clause to the Defence of India Rules.”

Therefore, the subjective satisfaction arrived by the detaining authority would be insufficient to meet out the objectives of the Tamil Nadu Act 14 of 1982. Thus, we are inclined to interfere.



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5. Accordingly, the impugned order of detention in Memo No.647/BCDFGISSSV/2024 dated 08.06.2024, is quashed and the Habeas Corpus Petition stands **allowed**. The detainee, namely, Thiru.Selvam @ Olai Selvam S/o.Easu, aged about 48 years, who is confined at Central Prison, Puzhal, Chennai, 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.]

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

To

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3. The Inspector of Police,
G-1 Vepery Police Station, Chennai.

4. The Superintendent of Prison,
Central Prison II, Puzhal, Chennai 600 066.

5. The Public Prosecutor,
High Court, Madras.

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

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