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HCP.No.2091 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.2091 of 2024

Ilakkiya

... Petitioner

Vs.

1.The State represented by
Secretary to Government (Home),
Prohibition and Excise Department,
Fort St.George, Chennai – 600 009.

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

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

4.The Superintendent of Prisons,
Office of the Superintendent of Prisons,
Central Prison, Vellore,
Vellore District.

5.The Inspector of Police,
Gudiyatham Taluk Police Station,
Vellore District.

.... Respondents



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PRAYER: Petition filed under Article 226 of Constitution of India to issue a Writ of Habeas Corpus, calling for the entire records in pursuant to the detention order issued by the 2nd respondent vide C3/D.O.No.42/2024 dated 16.07.2024 and set aside the same and consequentially direct the respondent to produce the detenu Muthu S/o.Sandhar aged about 29 years now confined at Central Prison, Vellore, Vellore District before this Court and set him at liberty forthwith.

For Petitioner : Mr. M.Sathishkumar

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 herein in C3/D.O.No.42/2024 dated 16.07.2024 is sought to be quashed in the present Habeas Corpus Petition.

2.Page No.28 in booklet No.I has not been translated in the language known to the detenu. Thus, 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 detenu 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 C3/D.O.No.42/2024 dated 16.07.2024, is quashed and the Habeas



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Corpus Petition stands **allowed**. The detainee, namely, Muthu S/o.Sandhar, aged about 29 years, now confined in Central Prison, Vellore, 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 represented by
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Fort St.George, Chennai – 600 009.

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6.The Public Prosecutor,
High Court, Madras.



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