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HCP.No.2301 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.09.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE DR. JUSTICE A.D. MARIA CLETE

H.C.P.No.2301 of 2024

Nallammal

... Petitioner/Wife of the Detenu

Vs.

1. The Principal Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.
2. District Collector and District Magistrate,
Perambalur District, Perambalur.
3. The Superintendent of Police,
Perambalur District.
4. The Superintendent, Central Prison,
Tiruchirappalli.
5. The Inspector of Police,
Prohibition Enforcement Wing,
Perambalur District.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Habeas Corpus, calling for the records relating to the detention order passed by the second respondent pertaining to the order made in Cr.M.P.No.15/2024 dated 09.07.2024 in detain the detenu under 2(b) of Tamil



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Nadu Act 14 of 1982, as a BOOT-LEGGER and quash the same and direct the respondent to produce the detenu Selvarasu, son of Thangavelu aged about 51 years, who is detained at Central Prison, Tiruchirappalli before this Court and set him at liberty.

For Petitioner	: M/s.K.M.Karunakaran
For Respondents	: Mr.E.Raj Thilak Additional Public Prosecutor

ORDER

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

The preventive detention order passed by the second respondent dated 09.07.2024 is sought to be quashed in the present habeas corpus petition.

2. Heard the learned counsel for the petitioner, as well as the learned Additional Public Prosecutor appearing for the respondents.

3. Though several points have been raised by the learned counsel for the petitioner, it is stated that the detention order is liable to be quashed on the ground that the detenu was furnished with illegible copies in volume-II of the booklet. Hence, it is submitted that the detenu was deprived of making effective representation.



4. On a perusal of the Booklet, it is seen that Page Nos.75 and 76 in Volume-II of the booklet furnished to the detenu, are illegible. Thus, furnishing of illegible copies of the vital document would deprive the detenu of making effective representation to the authorities against the order of detention.

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

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



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liable to be quashed.

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7. Hence, for the aforesaid reasons, the detention order passed by the second respondent in proceedings Cr.M.P.No.15/2024 dated 09.07.2024 is hereby set aside and the Habeas Corpus Petition is **allowed**. The detenu viz., Selvarasu, aged 51/2024, S/o. Thangavelu confined at Central Prison, Tiruchirappalli is directed to be set at liberty forthwith, unless he is required in connection with any other case.

[S.M.S., J.]

[A.D.M.C., J.]

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Index: Yes/No

Speaking/Non-speaking order

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1. The Principal Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.
2. The Joint Secretary to Government,
Public (Law and Order) Department,
Fort St.George, Chennai - 9.
3. District Collector and District Magistrate,
Perambalur District, Perambalur.
4. The Superintendent of Police,
Perambalur District.
5. The Superintendent, Central Prison,
Tiruchirappalli.
6. The Inspector of Police,
Prohibition Enforcement Wing,
Perambalur District.
7. The Public Prosecutor,
Madras High Court,
Chennai - 104.



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AND
DR.A.D.MARIA CLETE, J.

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