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HCP.No.2333 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.10.2024

CORAM :

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

H.C.P.No.2333 of 2024

Kamala

... Petitioner

Vs.

1.The Addl. Chief Secretary to Government,
Home, Prohibition and Excise (XVI) Department,
Fort St.George,
Chennai - 600 009.

2.District Collector and District Magistrate,
Tiruvarur District, Tiruvarur.

3.The Superintendent of Police,
Tiruvarur District.

4.The Superintendent, Central Prison,
Tiruchirappalli.

5.The Inspector of Police,
Muthupettai Police Station,
Tiruvarur District.

... Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, calling for the records relating to the detention order passed by the second respondent pertaining to the order made in C.O.C.NO. 21/2024 dated 10.08.2024 in detain the detenue under 2(e) of Tamil Nadu Act 14 of 1982, as a drug offender and quash the same and direct the respondent to produce the detenue Mahesh son of Samynathan aged about 32 years, who is detained at Central Prison, Tiruchirappalli before this court and set him at liberty.

For Petitioner : Mr.G.Nirmalkrishnan

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 Commissioner of Police, Greater Chennai in proceedings C.O.C.NO. 21/2024 dated 10.08.2024 is sought to be quashed in the present Habeas Corpus Petition.

2.Admittedly, the known language to the detenue in the present case is 'Tamil'. The Government order at Page No.90 (Volume – II) was issued without translating the same in Tamil language. In other words, the Government Order furnished to the detenue is in unknown language to the detenue, which would



vitiating the entire proceedings.

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3. In this context, it is useful to refer to the judgment of the Hon'ble Supreme Court in '**Powanammal Vs. State of Tamil Nadu**'. 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

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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.”*

4. 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 liable to be quashed.

5. Hence, for the aforesaid reason, the detention order passed by the second



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respondent in proceedings C.O.C.NO. 21/2024 dated 10.08.2024 is quashed and

the Habeas Corpus Petition is **allowed**. The detenue viz., Mahesh son of Samynathan aged about 32 years, who is detained 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.]

[V.S.G., J.]

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

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

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To

- 1.The Addl. Chief Secretary to Government,
Home, Prohibition and Excise (XVI) Department,
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Chennai - 600 009.
- 2.District Collector and District Magistrate,
Tiruvarur District, Tiruvarur.
- 3.The Superintendent of Police,
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Muthupettai Police Station,
Tiruvarur District.
- 6.The Public Prosecutor,
Madras High Court.

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