



H.C.P.No.2100 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.01.2024

CORAM :

THE HONOURABLE MR. JUSTICE M.S.RAMESH

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

H.C.P.No.2100 of 2023

Selvi

...Petitioner/Wife of Detenu

Vs.

- 1.The State to Government,
Government of Tamil Nadu (Home),
Prohibition and Excise Department,
Fort St.George, Chennai.
- 2.The Commissioner of Police,
Greater Chennai,
Vepery, Chennai – 600 007.
- 3.The Superintendent of Police,
Central Prison, Puzhal,
Chennai.
- 4.The Inspector of Police,
Central Crime Branch – I,
Chennai.

...Respondents

Prayer : Habeas Corpus Petition filed under Article 226 of the Constitution



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of India praying for the issuance of a Writ of Habeas Corpus, to call for the entire records, relating to the impugned order No.428/BCDFGISSSV/2023 dated 29-09-2023 on the file of the 2nd respondent herein and set aside the same as illegal and direct the respondents to produce namely Ragupathy son of Kasi, aged about 42 years, now confined at Central Prison, Puzhal, Chennai before this Court set him at liberty.

For Petitioner : Mr. M.Raja
For Respondents : Mr.E.Raj Thilak
Additional Public Prosecutor
assisted by
Mr.C.Aravind

ORDER

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

The petitioner, wife of the detenu Raghupathy, S/o.Kasi, aged about 42 years, has come forward with this petition challenging the detention order passed by the 2nd respondent dated 29.09.2023 slapped on her husband, branding him as "Goonda" under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Cyber Law Offenders, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Sexual Offenders, Slum Grabbers and Video Pirates Act, 1982 [Tamil Nadu Act 14



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of 1982].

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2. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the respondents.

3. The detenu has been detained for the ground case that occurred in the year 2020 and the detention order is dated 29.09.2023. The Hon'ble Supreme Court in the case of *Sama Aruna v. State of Telangana and Another*, reported in **(2018) 12 SCC 150**, had held that in cases where there is a considerable delay between the date of the ground case and the detention order, it has been held that such 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. The observation of the Hon'ble Supreme Court reads 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 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.”



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4. In the instant case for the involvement of the detenu in the ground case which occurred in the year 2020, the detention order has been passed after three years. By applying the ratio laid down by the Hon'ble Supreme Court in *Sama Aruna's case* [cited supra], we are of the view that the detention order is vitiated.

5. In view of the aforesaid reason, the detention order passed by the 2nd respondent dated 29.09.2023 in No.428/BCDFGISSSV/2023, is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Ragupathy, S/o.Kasi, aged about 42 years, is directed to be set at liberty forthwith unless he is required in connection with any other case.

[M.S.R., J] [S.M., J]
08.01.2024

ars

Index : Yes / No

Neutral Citation : Yes / No



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