



H.C.P.No.2121 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.01.2024

CORAM :

THE HONOURABLE MR. JUSTICE M.S.RAMESH

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

H.C.P.No.2121 of 2023

Abi

... Petitioner

Vs.

1. Government of Tamil Nadu, rep.by its
The Secretary
Home, Prohibition and
Excise Department
Secretariat, Chennai 600 009.
2. The District Magistrate and District Collector
District Collector Office
Tiruvallur District.
3. The Superintendent of Police
District Superintendent Office
Thiruvallur District.
4. The Superintendent of Prison
Central Prison-II
Puzhal, Chennai.



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5. The Inspector of Police
PEW Gummidipoondi
Tiruvallur District.

... Respondents

Prayer : Habeas Corpus Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Habeas Corpus, to call for the records in Detention Order passed in Memo BCDFGISSSV No.26/2023 dated 04.09.2023 on the file of the second respondent herein and quash the same and direct the respondents herein to produce the body of petitioner's husband Thiru.Ashok @ Ashok Kumar M/A 24 years, S/o.Udhayakumar now confined in Central Prison-II, Puzhal, Chennai, before this Court and set him at liberty.

For Petitioner	:	Mr.D.Padmanabhan
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 Ashok @ Ashok Kumar, aged about 24 years, S/o.Udhayakumar, has come forward with this petition



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challenging the detention order passed by the second respondent dated 04.09.2023 slapped on her husband, branding him as "Drug Offender" 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 of 1982].

2. Heard the learned counsel for the petitioner and 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 sole ground that the detenu was furnished with a Booklet without the translation of the FSL report in the vernacular language and which report is relied upon by the Detaining Authority for passing the order of detention.



4. It is seen that in page Nos.60 to 62 of the Booklet furnished to the detenu, FSL report in the ground case has not been translated in the vernacular version. This non furnishing of the vital document in vernacular language 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 had occasion to deal with similar situation where in the Grounds of Detention referred to an order remanding the detenu therein to judicial custody was in English language. Since the Tamil version of the document was not supplied to the detenu therein, a specific issue was raised by the Hon'ble Supreme Court whether failure to supply Tamil version of the remand order passed in English, a language not known to the detenu therein, would vitiate the detenu's further detention. 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 as follows:-

Paragraphs 9 and 16 {as in SCC journal} read 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. Thus, the detention order is vitiated on the ground of non furnishing of the vital document in the vernacular language and hence, the same is liable to be quashed.

7. In view of the aforesaid reason, the detention order passed by the 2nd respondent dated 04.09.2023 in BCDFGISSSV No.26/2023 is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Ashok @ Ashok Kumar, aged 24 years, S/o.Udhayakumar, is directed to be set at liberty forthwith unless he is required in connection with any other



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case.

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[M.S.R., J] [S.M., J]
05.01.2024

pvs

Internet : Yes

Index : Yes / No

Neutral Citation : Yes / No

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