



HCP.No.2228 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.02.2024

CORAM :

THE HONOURABLE MR. JUSTICE M.S. RAMESH
AND
THE HONOURABLE MR. JUSTICE SUNDER MOHAN

H.C.P.No.2228 of 2023

M.Kalaiselvi

... Petitioner

Vs.

1.The State of Tamil Nadu,
Rep. by its Secretary to Government,
Prohibition and Excise Department,
Fort St. George, Chennai – 9.

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

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

4.The Superintendent of Police,
Central Prison, Cuddalore.

5.The Inspector of Police,
Thiyagadurugam Police Station,
Kallakurichi 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 proceedings of the 2nd respondent herein in order D.O.No.C2/19/2023 dated 14.10.2023 and quash the same and produce detenu Vasanthakumar, S/o.Murugesan TPDA No.4073, now detained in Central Prison, Cuddalore, before this Court and set him at liberty.

For Petitioner : Mr.P.Rajavel
For Respondents : Mr.E.Raj Thilak,
Additional Public Prosecutor
assisted by Mr.C. Aravind

ORDER

M.S.RAMESH, J.
AND
SUNDER MOHAN, J.

The petitioner herein, who is the mother of the detenu Vasanthakumar, aged about 29 years, S/o.Murugesan, has come forward with this petition challenging the detention order passed by the second respondent dated 14.10.2023 slapped on her son, branding him as "Goonda" under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Cyber Law Offenders, Drug Offenders, Forest Offenders,



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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, as well as the learned Additional Public Prosecutor appearing for the respondents.

3. Though several grounds are raised in the petition, the learned counsel for the petitioner pointed out that the Detaining Authority has relied upon the stale cases and kept irrelevant newspaper cuttings in the Booklet filed by them. Therefore, the learned counsel submitted that the document relied upon by the Detaining Authority to detain the detenu, has no live and proximate connection with activities alleged to be prejudicial to maintenance of public order, and that there is no compelling necessity for detention. In support of his contentions, the learned counsel relied upon the judgment of the Hon'ble Supreme Court in '*Sama Aruna Vs. State of Telengana and others* reported in '(2018) 12 SCC 150'.



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4. The Hon'ble Supreme Court, in ***Sama Aruna's case*** (*supra*), has observed 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.

23. In this case, we find the authority has come to a conclusion so unreasonable that no reasonable authority could ever reach. A detaining authority must be taken to know both, the purpose and the procedure of law. It is no answer to say that the authority was satisfied. In T.A. Abdul Rahman v. State of Kerela and Ors. [(1989) 4 SCC 741] , this Court observed, where the authority takes into account stale incidents which have gone by to seed it would be safe to infer that the satisfaction of the authority is not a genuine one.”



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5. On perusal of the records particularly in page Nos.10 & 11 of the Booklet, this Court finds that the Detaining Authority has relied upon the irrelevant newspaper cuttings which has no material to indicate that the incident relied upon by the Detaining Authority to arrive at the substantive satisfaction to detain the detenu, has a live and proximate link with the activities of the detenu which is prejudicial to the maintenance of public order. As held by the Hon'ble Supreme Court in ***Sama Aruna's case (supra)***, incidents which are stale, cease to have relevance to the subject matter of the inquiry and must be treated as extraneous to the scope and purpose of the Statute. The incident relied upon by the Detaining Authority through the newspaper cutting is stale and does not indicate the immediate need to detain the detenu. The Detaining Authority has taken into account only stale incident and therefore, there is no compelling necessity to detain the detenu in the ground case without a trial.

6. In view of the ratio laid down by the Hon'ble Supreme Court



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and in view of the aforesaid facts, this Court is of the view that the detention order is vitiated and the same is liable to be quashed.

7. Accordingly, the detention order passed by the second respondent on 14.10.2023 in D.O.No.C2/19/2023, is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Vasanthakumar, aged 29 years, S/o.Murugesan, 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]

21.02.2024

Index: Yes/No

Internet: Yes/No

Neutral Citation: Yes/No

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To

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Prohibition and Excise Department,
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- 2.The District Collector and District Magistrate,
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- 3.The Superintendent of Police,
Kallakurichi,
Kallakurichi District.
- 4.The Superintendent of Police,
Central Prison, Cuddalore.
- 5.The Inspector of Police,
Thiyagadurugam Police Station,
Kallakurichi District.
- 6.The Public Prosecutor,
High Court, Madras.



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