



H.C.P.No.2338 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 31.01.2024

CORAM :

THE HONOURABLE MR. JUSTICE M.S.RAMESH

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

H.C.P.No.2338 of 2023

Vijayalakshmi

... Petitioner / Mother of Detenue
Vs.

1. State of Tamil Nadu represented by
The Secretary to Government,
Home, Prohibition and Excise Department
Fort St. George, Chennai 600 009.
2. The Commissioner of Police,
Greater Chennai.
3. The Superintendent of Prison,
Central Prison Puzhal, Chennai.
4. State represented by Inspector of Police,
H5 New Washermanpet Police Station,
Chennai.

... Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue Writ of Habeas Corpus, calling for the records of the 2nd respondent pertaining to the order made in Memo No.395/BCDFGISSSV/2023, dated



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13.09.2023 in detaining the detenu under the Tamil Nadu Act 14/1982 as a brand of Goonda and quash the same and direct the respondents to produce the detenu, petitioner's son Vignesh @ Vicky, Son of Muthu, aged 26years who is detained at the Central Prison Puzhal, Chennai, before the Hon'ble Court and set him at liberty.

For petitioner : Mr.B. Bharath
For Respondents : Mr.E. Raj Thilak
Additional Public Prosecutor
Assisted by Aravind.C

ORDER

(Order of the Court was made by **SUNDER MOHAN, J.**)

The petitioner, mother of the detenu namely Vignesh @ Vicky, aged about 26 years, has come forward with this petition challenging the detention order passed by the 2nd respondent, dated 13.09.2023 slapped on her son, branding him as "Goonda" under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Slum Grabbers and Video Pirates Act, 1982 [Tamil Nadu Act 14 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.Though several grounds were raised by the learned counsel for the petitioner, this Court is of the view that the impugned detention order is liable to be quashed on the ground that the grounds of detention furnished to the detenu in Tamil language has not been signed by the detaining authority. The signed detention order was passed on 13.09.2023 and the same was furnished to the detenu both in English and in Tamil. The signed grounds of detention, which is equally important, was furnished only in English language. The grounds of detention in Tamil, which was furnished to the detenu, does not contain the signature of the detaining authority. When signed copies of detention order was furnished both in Tamil and English, there is no reason as to why the Tamil version of the grounds of detention was not signed by the detaining authority. In Such circumstances, there is no means to verify the authenticity of the grounds of detention furnished to the detenu in Tamil language. Serious prejudice would be caused to the detenu as the detenu would be denied of his right to make



effective representation on the basis of such a document furnished to him.

The observations of the Hon'ble Supreme Court in ***Powanammal Vs. State of Tamil Nadu*** reported in ***(1999) 2 SCC 413*** would apply to a case of this nature also. The right of being communicated with the grounds of detention has been denied to the detenu. It would be useful to extract the relevant observations in the above judgment, which are 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.”

4.Thus, the detention order is vitiated on the ground of not furnishing the signed copy of the Tamil version of the "grounds of detention" to the detenu, and hence, the same is liable to be quashed.

5.Accordingly, the detention order passed by the 2nd respondent dated 13.09.2023 in No. 395/BCDFGISSSV/2023, is hereby set aside and the



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Habeas Corpus Petition is allowed. The detenu viz., Vignesh @ Vicky,
S/o.Muthu, aged about 26 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.)
31.01.2024

bga

Internet : Yes
Index : Yes / No
Neutral Citation : Yes / No



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To

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2. The Commissioner of Police,
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3. The Superintendent of Prison,
Central Prison Puzhal, Chennai.
4. State represented by Inspector of Police,
H5 New Washermanpet Police Station,
Chennai.
5. The Public Prosecutor,
High Court, Madras.
6. The Joint Secretary,
Law and Order Department,
Secretariat, Chennai.



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and
SUNDER MOHAN, J.

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