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HCP.No.2318 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.03.2024

CORAM :

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

H.C.P.No.2318 of 2023

Vijaya

... Petitioner

Vs.

1.State of Tamil Nadu,
Rep. by the Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George, Chennai – 600 009.

2.The Commissioner of Police,
Greater Chennai Police Commissioner,
The Commissioner Office,
Vepery, Chennai – 7.

3.The Superintendent of Police,
Central Prison, Puzhal, Chennai – 66.

4.The Inspector of Police, Law and Order,
G1-Vepery Police Station,
Chennai.

... Respondents

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 in Memo No.508/BCDFGISSSV/2023 dated 27.10.2023



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passed by the 2nd respondent under the Tamil Nadu Act 14 of 1982 and set aside the same and direct the respondents to produce the petitioner's son Karan, the detenu, aged about 23 years, S/o. Neelakandan, now confined in Central Prison, Puzhal, Chennai, before this Court and set the petitioner's son Karan, aged about 23 years, S/o. Neelakandan, the detenu herein at liberty.

For Petitioner : Mr.N.Naresh

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 namely Karan, aged about 23 years, S/o. Neelakandan, has come forward with this petition challenging the detention order passed by the second respondent dated 27.10.2023 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, Goondas, Immoral Traffic Offenders, Sand Offenders, Sexual 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, 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 in the original remand order on which reliance has been placed by the Detaining Authority, the injury caused to the first accused in the lower lip has been translated to the injury in the lower hip. This apart, in the grounds of detention, reliance has been placed on 2 orders claiming them to be the similar case as that of the petitioner's ground case. However, the English version of one of the orders has not been furnished and that only the original Tamil version has been furnished to the detainee. In these circumstances, the learned counsel for the petitioner stated that serious prejudice has been caused to the petitioner for making effective representation.

4. On a perusal of the Booklet, it is seen that page Nos.34 & 35 are the English and Tamil version of the remand order which has been wrongly translated. In the English version of the remand order, the injury to the first accused is mentioned in the lower lip, however, in the Tamil version, the



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injury to the first accused is mentioned in the lower hip. Further, in the two similar cases relied upon by the Detaining Authority in CrI.M.P.No.30729 of 2023 and CrI.M.P.No.16039 of 2023, the English version of the order in CrI.M.P.No.16039 of 2023 has not been furnished to the detenu. Since a specific stand has been taken that serious prejudice is caused to the petitioner, this Court finds that the failure to furnish a proper translated copy of the remand order, as well as the translated copy of the similar order, vitiates the Detention Order.

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, 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:



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“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,



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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. 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.

7. Hence, for the aforesaid reasons, the detention order passed by the second respondent on 27.10.2023 in No.508/BCDFGISSSV/2023, is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Karan, aged about 23 years, S/o. Neelakandan, 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]

04.03.2024

Index: Yes/No

Internet: Yes/No

Neutral Citation: Yes/No

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To

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Home, Prohibition and Excise Department,
Fort St.George, Chennai – 600 009.
- 2.The Commissioner of Police,
Greater Chennai Police Commissioner,
The Commissioner Office,
Vepery, Chennai – 7.
- 3.The Superintendent of Police,
Central Prison, Puzhal, Chennai – 66.
- 4.The Inspector of Police,
G1-Vepery Police Station,
Chennai.
- 5.The Public Prosecutor,
High Court, Madras.



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