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H.C.P.No.3130 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.12.2024

CORAM:

**THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR. JUSTICE M.JOTHIRAMAN**

H.C.P.No.3130 of 2024

Geetha

... Petitioner

Vs.

1.The Secretary to the Government,
Government of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St.George,
Chennai – 600 009.

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

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

4.The Superintendent,
Central Prison,
Cuddalore.

5.The Inspector of Police,
Bhuvanagiri Police Station,
Cuddalore District.
(Crime No.328 of 2024)

... Respondents



H.C.P.No.3130 of 2024

PRAYER: Habeas Corpus Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Habeas Corpus, calling for the entire records connected with the order of the 2nd respondent herein concerned in C3/D.O/91/2024 dated 30.10.2024 and quash the order of detention passed therein by the 2nd respondent herein against the detenu and directing the respondents herein to produce the body or person of the detenu by name Baskaran, S/o.Thillaikannu, aged about 55 years, now detained at Central Prison, Cuddalore, before this Court and setting him at liberty forthwith.

For Petitioner : Mr.M.Ragul Kousik

For Respondents : Mr.R.Muniyapparaj
Additional Public Prosecutor

ORDER

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

Based on the two adverse cases and one ground case, the order of detention has been passed by the second respondent in proceedings C3/D.O/91/2024 dated 30.10.2024 and the said order is sought to be quashed in the present Habeas Corpus Petition.

2. Heard the learned counsel for the petitioner, as well as the learned



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Additional Public Prosecutor appearing for the respondents.

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3. The learned counsel for the petitioner submitted that all the cases relied on by the respondents have been registered under the provisions of the Cigarettes and other Tobacco Products [Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution] Act, 2003.

4. In respect of the alleged offences under the Cigarettes and other Tobacco Products [Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution] Act, 2003, this Court has raised a serious doubt regarding invoking of Act 14 of 1982. In our opinion, selling of tobacco products *per se* may not constitute breach of public order and on that ground, the present case has to be considered.

5. Accordingly, the detention order passed by the second respondent, in C3/D.O/91/2024 dated 30.10.2024, is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Baskaran, S/o.Thillaikannu, aged about 55 years, (who is presently undergoing detention in Central



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Prison, Cuddalore,)), is directed to be set at liberty forthwith, unless he is required in connection with any other case.

(S.M.S, J.)

(M.J.R, J.)

19.12.2024

Index: Yes/No

Speaking order/Non-speaking order

Internet: Yes/No

Neutral Citation: Yes/No

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- 1.The Secretary to the Government,
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- 6.The Public Prosecutor,
High Court of Madras, Chennai.



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and
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