



H.C.P.(MD) No.92 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.06.2024

CORAM:

**THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA
and
THE HONOURABLE MR.JUSTICE K.RAJASEKAR**

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Maruthupandian
(Now confining at Central Prison, Palayamkottai) ... Petitioner

-VS-

- 1.The Principal Secretary to Government,
Home, Prohibition and Excise (xiv) Department,
Secretariat,
Chennai-600 009.
- 2.The District Collector and District Magistrate,
Tenkasi District,
Tenkasi-11.
- 3.The Superintendent of Prison,
Palayamkottai Central Prison,
Tirunelveli District. ... Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus to call for the entire records, connected with the detention order of the Respondent No.2 in M.H.S.Confdl.No.84/2023, dated 28.11.2023 and quash the same and direct the respondents to produce the detenu, by name Maruthupandian, S/o.Muthupandian, aged about 24 years, now detained in Palayamkottai Central Prison, before this Court and set him at liberty forthwith.

For Petitioner : Mr.R.Vinoth Bharathi

For Respondents : Mr.A.Thiruvadi Kumar
Additional Public Prosecutor

ORDER

[Order of the Court was made by A.D.JAGADISH CHANDIRA, J.]

The petitioner is the detenu viz., Maruthupandian, son of Muthupandian, aged about 24 years. The detenu has been detained by the second respondent by his order in M.H.S.Confdl.No.84/2023, dated 28.11.2023, holding him to be a "Drug Offender", as contemplated under Section 2(e) of Tamil Nadu Act 14 of 1982. The said order is under challenge in this habeas corpus petition.



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2. We have heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondents. We have also perused the records produced by the Detaining Authority.

3. Though several grounds have been raised in the habeas corpus petition, learned counsel for the petitioner focused mainly on the ground that at paragraph-3 of the grounds of detention it has been observed by the detaining authority that the detenu was arrested in Kadayanallur Police Station in Cr.No. 451/2023 on 04.11.2023 and he was produced before the Judicial Magistrate, Sivagiri, whereas, at page No.71 of the booklet Volume-I is found that the request for remand was filed before the learned Judicial Magistrate, Tenkasi and the learned Judicial Magistrate, Tenkasi has passed the order of remand. The detaining authority without application of mind has stated that the detenu was produced before the Judicial Magistrate, Sivagiri. He would further submit that the detaining authority has also not sought for any clarification from the sponsoring authority in this regard and thereby the detention order has vitiated on the ground of non-application of mind.



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4. Learned Additional Public Prosecutor, on instructions, submitted that after satisfying with the materials placed by the Sponsoring Authority, the Detaining Authority has passed the impugned detention order and there is no illegality or infirmity in the detention order and hence, prayed for dismissal of the habeas corpus petition.

5. As per the submission of the learned counsel for the petitioner and on perusal of the records, we find that at page No.71 of the booklet Volume-I, the prayer for remand was sought for before the Judicial Magistrate, Tenkasi and the remand order at Page No.77 of the booklet Volume-I has also been passed by the learned Judicial Magistrate, Tenkasi, whereas in the ground it has been stated as if the accused was remanded by Judicial Magistrate, Sivagiri. The detaining authority without application of mind with regard to the same had passed the detention order and thereby, the detention order has vitiated on the ground of non-application of mind.



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6. In the light of the above discussion, we have no hesitation in quashing the order of detention on the ground of non-application of mind on the part of the detaining authority in passing the impugned detention order.

7. In the result, the Habeas Corpus Petition is allowed and the order of detention in M.H.S.Confdl.No.84/2023, dated 28.11.2023, passed by the second respondent is set aside. The detenu, viz., Maruthupandian, aged about 24 years, son of Muthupandian, is directed to be released forthwith unless his detention is required in connection with any other case.

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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[A.D.J.C., J.] [K.R.S., J.]
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To:

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- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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AND
K.RAJASEKAR, J.
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