



H.C.P.(MD).No.173 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 15.03.2024

CORAM

**THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN
AND
THE HON'BLE MR.JUSTICE C.KUMARAPPAN**

H.C.P.(MD).No.173 of 2024

Chellasamy

.. Petitioner/Detenu

Vs.

1.The Additional Chief Secretary to Government,
State of Tamil Nadu,
Home, Prohibition and Excise (xiv) Department,
Fort St. George,
Chennai – 600 009.

2.The District Collector and District Magistrate,
Office of the District Collector and District Magistrate,
Tenkasi District,
Tenkasi.

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.64/2023 dated 15.09.2023 and quash the same and direct the respondents to produce the body or person of the detenu by name, Chellasamy, son of Kotturan, aged about 33 years, now detained as “GOONDA” at Palayamkottai Central Prison before this Court and set him at liberty forthwith.

For Petitioner : Mr.R.Alagumani

For Respondents : Mr.S.Ravi
Additional Public Prosecutor

ORDER

DR.G.JAYACHANDRAN,J.
and
C.KUMARAPPAN,J.

The petitioner is detained under the Tamil Nadu Act 14 of 1982 by the impugned order dated 15.09.2023 on the subjective satisfaction of the detaining authority that the presence of the accused is likely to cause disturbance to public peace. The detention order of Chellasamy S/o Kotturan is under challenge in the present Habeas Corpus Petition.



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2. The learned counsel appearing for the petitioner states that it is a solitary case, in which, the detenu, his brother, and his parents are the accused for murdering one Ilayaraja, who is none other than the brother's son of the detenu. A property dispute between two families has led to the incident, in which, while the deceased was crossing the house of the detenu, the detenu attacked him with a spade and done to death. When the public came to rescue the injured, it is alleged that the detenu branding his spade threatened them to get away or else, he will kill them also, as if, Ilayaraja. The ground case does not fall within the character of causing disturbance to the maintenance of public peace and therefore, challenging the subjective satisfaction of the detaining authority, the present petition is filed.

3. This Court, on perusing the records, finds that the said incident has occurred on 11.08.2023. The case in Crime No.321 of 2023 has been registered against the detenu (A1), his brother (A2), mother (A3) and father (A4). The detenu was arrested on the same day and remanded to judicial custody. The detention order is passed on 15.09.2023. In the detention



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order, it is stated that there is a likelihood of getting bail in this case and if the detenu is let out, he will indulge in the further activities in future, which will be prejudicial to the maintenance of public order. The said satisfaction is under challenge before this Court.

4. On a reading of the materials, this Court finds that the said satisfaction recorded by the detaining authority is without any basis or justification. In the solitary incident arising out of the property dispute between siblings. In which, the brother and parents of the detenu are also accused. The victim/deceased is the brother's son of the detenu.

5. In view of the above, it is apparent that it is a family dispute, which resulted in murder. Therefore, the element of public order is conspicuously missing. Even the incident may not fall within the character of law and order problem, since there was no adverse incident either prior to this ground case or subsequent to the ground case, though the other accused have already been released on bail.



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6. In view of the above fact and reasons, the Habeas Corpus Petition is allowed and the order of detention in M.H.S. Confdl No.64/2023 dated 15.09.2023 passed by the second respondent is set aside. The detenu, viz., Chellasamy, aged about 33 years, son of Kotturan is directed to be released forthwith unless his detention is required in connection with any other case.

(G.J.,J.) (C.K.,J.)
15.03.2024

NCC : Yes / No

Index : Yes / No

Internet : Yes

skn

To

1.The Additional Chief Secretary to Government,
State of Tamil Nadu,
Home, Prohibition and Excise (xiv) Department,
Fort St. George,
Chennai – 600 009.

2.The District Collector and District Magistrate,
Office of the District Collector and District Magistrate,
Tenkasi District,
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DR.G.JAYACHANDRAN,J.
and
C.KUMARAPPAN,J.

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

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15.03.2024