



HCP(MD)No.701 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
Criminal Original Jurisdiction
Monday, the Ninth day of September Two Thousand and Twenty Four
PRESENT
The Hon`ble Mr.Justice C.V.KARTHIKEYAN
AND
The Hon`ble Mr.Justice J.SATHYA NARAYANA PRASAD

HCP(MD)No.701 of 2024

S.Suganya

... Petitioner/Wife of the Detenu

Vs

1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 9.

2.The District Collector and District Magistrate
Thoothukudi District
Thoothukudi.

3.The Superintendent,
Palayamkottai Central Prison,
Tirunelveli District.

4.The Inspector of Police
Pew-Thoothukudi,
Thoothukudi District.

... Respondents

Prayer :- Habeas Corpus Petition filed under Article 226 of the Constitution of India, to call for records in HS(M)Confdl.No.137/2023 dated 26/9/2023, on the file of the second respondent herein and set aside the same and direct the respondents herein to produce the detenu Sampath Kumar, aged 50 years, S/o.Rajendran, who has been termed as "Drug Offender" now confined in Central Prison, Palayamkottai.

<https://www.mhc.tn.gov.in/judis>



HCP(MD)No.701 of 2024

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ORDER:- This Habeas Corpus Petition coming on for orders on this day and upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Mr.D.Selvanayagam, Advocate for the Petitioner and of Mr.S.Ravi, Additional Public Prosecutor for the respondents, this Court made the following order:-

We are constrained to allow H.C.P(MD)No.701 of 2024 on the ground relating to the detenu Sampath Kumar, son of Rajendran, aged about 50 years, who was remanded by the learned Judicial Magistrate No.III, Thoothukudi, on 29.08.2023 in Crime No.584 of 2023 and we confess, we are not able to understand even a single word which had been written by the concerned Judicial Magistrate. It is only natural that the respondents would not have even attempted to translate the same in Tamil. They would also not be in a position to understand on what ground the remand order was made. There are certain guidelines which had been provided before the initial remand is ordered, namely, to enquire whether the accused understood as to why he was arrested, whether the relatives of the accused had been informed about the arrest, whether there had been any injury suffered by the accused and more importantly, whether the accused has anything to state about the case.



HCP(MD)No.701 of 2024

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2. The High Court, has under the aegis of the Government provided computers, laptops and every other facilities to every Magistrate and Officer of the Judiciary and it could not have taken any effort for the learned Magistrate to have attempted to type it out the remand order in his laptops available in his residence and provide a legible copy, so that, the respondents would be in a position to translate the same. This could also be an indication that the Magistrate did not know how to pass a remand order and to cover up the same, had just scribbled a few words running to a page and a half and termed it as a remand of the prisoner. It would also affect the fundamental right of the prisoner to understand as to why he was being sent to judicial custody.

3. The Registry to call for explanation from the learned Judicial Magistrate No.III, Thoothukudi who so functioned on 29.08.2023. Registry may direct the learned Chief Judicial Magistrate, Thoothukudi, to determine who was actually the Magistrate who was functioning in-charge of Judicial Magistrate No.III on 29.08.2023 and as to the name of the actual Officer who had passed the remand order on 29.08.2023 and ask the learned Judicial Magistrate concerned to type out his own remand order and indicate how long it took him to read his own order and an explanation as to why a legible copy was not written down by him in the first



HCP(MD)No.701 of 2024

instance.

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4. Explanation by the learned Judicial Magistrate to be forwarded by **30.09.2024**. A copy of Page No.329 may be enclosed along with this order by the Registry and forwarded to the Chief Judicial Magistrate, Thoothukudi, for forwarding an explanation of the concerned Judicial Magistrate.

5. Registry should call for explanation to be submitted on or before **30.09.2024**.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/09/2024

Sub Assistant Registrar
(CS- I, II, III, IV)

RM

Copy to:-

1.The Registrar (Judicial),
Madurai Bench of Madras High Court,
Madurai.

2.The Section Officer,
'B' Section,
Madurai Bench of Madras High Court,
Madurai.

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HCP(MD)No.701 of 2024

3.The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court,
Madurai.

ORDER DATED : 09/09/2024

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ORDER

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HCP(MD)No.701 of 2024

Giving direction and etc.
as stated within.

RD(18.09.2024) 5P / 4C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17.07.2023.