



H.C.P.(MD)No.746 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 19.11.2024

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
and
THE HONOURABLE MS.JUSTICE R.POORNIMA**

H.C.P.(MD)No.746 of 2024

Senthil Perumal

... Petitioner / Father of the Detenu

Vs.

1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai – 600 009.

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

3.The Superintendent of Police,
District Jail, Peraoornai,
Thoothukudi District.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for the issue of a Writ of Habeas Corpus, calling for the entire records leading to the detention of the petitioner's son namely, Maruthu @ Maruthu Pandi aged about 29 years S/o.Senthil Perumal vide detention order in H.S(M) Confdl.No.48/2024 dated 02.05.2024 passed by the 2nd respondent and quash the same and consequently direct the respondents to produce the body or person of the detenu now detained



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at District Jail, Peraoorani, Thoothukudi District before this Court and set him at liberty.

For Petitioner : Mr.K.Suyambulinga Bharathi

For Respondents : Mr.T.Senthil Kumar
Addl. Public Prosecutor.

ORDER

(Order of the court was delivered by G.R.Swaminathan, J.)

The petitioner is the father of the detenu. The detenu was detained as “Goonda” by the District Collector and District Magistrate, Thoothukudi District vide order dated 02.05.2024. Crime No.45 of 2024 registered on the file of Sawyerpuram Police Station for the offences under Sections 341, 294(b), 387, 307 and 506(ii) of IPC is the ground case based on which the detention order came to be passed. The detenu was also implicated in few other cases. The detenu was produced before the Judicial Magistrate No.I, Kovilpatti on 17.04.2024 and remanded to judicial custody upto 30.04.2024. The case of the detenu is that the remand order passed on 17.04.2024 which is relied upon by the detaining authority was not furnished to the detenu. In the booklet also, copy of the remand order dated 17.04.2024 has not been enclosed.



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2.The learned counsel for the petitioner relied upon the decision of the Hon'ble Supreme Court reported in **(1999) 2 SCC 413 (Powanammal Vs. State of Tamil Nadu)**. Paragraph Nos.13 to 15 of the said decision read as follows:-

*“13.In **Madan Lal Anand v. Union of India**, AIR (1990) SC 176, one of the grounds of challenge to the order of detention was non-supply of copies of documents. The detaining authority relied upon three civil miscellaneous applications filed in a civil revision petition. Copies of the miscellaneous petitions were supplied to the detainee but the copy of the civil revision petition in which the miscellaneous petitions were filed, was not furnished. It was observed that mentioning of civil revision petition in the grounds of detention was merely to identify the miscellaneous applications and having regard to the facts and circumstances of that case the detainee was not prejudiced due to non-supply of the copies of the documents to him and further, the other revision petitions, copies of which were not supplied, were mentioned to point out the fact of shifting of the factory premises without giving any specific address of the factory and that fact in the grounds of detention did not necessarily require the detaining authority to supply copies of the revision petitions. On those facts it was held that non-supply of the document did not cause any prejudice to him. This case falls in the aforementioned second category of documents.*



14.Kamarunnissa v. Union of India, AIR (1991) SC 1640

was also a case arising under Section 3 of the COFEPSA Act. There the documents that were not supplied to the detainee were merely referred to in the grounds of detention and were not relied upon by the detaining authority while arriving at the subjective satisfaction. The observation of the court that mere statement that the documents were not supplied was not sufficient and that the detainee must show that non-supply of documents has im-paired his right to make representation, has to be understood having regard to the fact that the document therein were merely referred to in the grounds of detention but were not relied upon by the detaining authority for reaching subjective satisfaction.

15.Adverting to the facts of this case, the appellant has made a repre- sentation for supply of Tamil version of the copy of order of remand and specifically stated that the detainee could not understand the English language. Admittedly, the Tamil version of order of remand was not furnished to her. A perusal of the grounds shows that the order of remand was relied upon by the second respondent to reach subjective satisfaction, so the detainee need not show that any prejudice was caused to her due to non-supply of the Tamil version of order of remand. Therefore, the High Court is not correct in holding that non-furnishing of the copy of the order of remand would not in any way prejudice the detainee.”



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3.Thus, a relied upon document ie., remand order dated 17.04.2024 has not been furnished to the detenu. This has infringed the detenu's right guaranteed under Article 22 of the Constitution of India.

4.In this view of the matter, the impugned order is set aside and the habeas corpus petition is allowed. The petitioner shall be set at liberty unless his detention is otherwise warranted by law.

(G.R.S. J.) & (R.P. J.)
19.11.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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Issue order copy on 20.11.2024.

To:-

- 1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai – 600 009.
- 2.The District Magistrate and District Collector,
Thoothukudi District, Thoothukudi.
- 3.The Superintendent of Police,
District Jail, Peraoornai,

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Thoothukudi District.

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



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