



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Criminal Original Jurisdiction

WEB COPY

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.885 of 2024

D.Sivapriya

... Petitioner/Wife of Detenu

Vs

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

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

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

4.The Inspector of Police,
Pew Thoothukudi Police Station,
Thoothukudi.

... Respondents

Prayer :- Habeas Corpus Petition filed under Article 226 of the Constitution of India,
<https://www.mhc.tn.gov.in/judis>

to call for the records in H.S(M)Confdl.No.132/2023 dt.26.09.2023 passed by the 2nd



respondent and issue a writ order or direction more particularly writ of Habeas Corpus or any other order or Direction and set aside the same and direct the respondents herein to produce the petitioner's husband Dayalan aged about 45 years, S/o.Manickam, who has been termed as "Drug Offender" now confined in Central Prison, Palayamkottai.

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.B.Lenin Balu, Advocate for Mr.G.Bhagavath Singh, 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.885 of 2024 on the ground relating to the detenu Dayalan, son of Manickam, aged about 45 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.

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 remand 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 give as to 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 instance.

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 III)

// True Copy //

/09/2024

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

RM

To
1.The Chief Judicial Magistrate,
Thoothukudi. (Enclose Remand Order Page No.329 of
the Booklet)

2.The Judicial Magistrate No.III,
Thoothukudi.



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.

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.885 of 2024

Giving direction and etc.

as stated within.

MGJ(13.09.2024) 5P 6C

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