



H.C.P.(MD) No.1469 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.04.2024

CORAM:

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

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D.Esakkiammal

... Petitioner

-VS-

- 1.State of Tamil Nadu
rep.by the Additional Chief
Secretary to Government
Home, Prohibition and Excise Department
Secretariat, Chennai-600 009
- 2.The District Collector and District Magistrate
Tirunelveli District
Tirunelveli
- 3.The Superintendent of Prison
Central Prison
Palayamkottai, Tirunelveli

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus to call for the entire records in detention order in M.H.S.Confdl No.79/2023, dated 05.08.2023, on the file of the second



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respondent and quash the same and direct the respondents herein to produce the body of the petitioner's son, namely, Esakkipandi @ Vijay, son of Devendhiran, aged about 22 years, now confined in Central Prison, Palayamkottai, before this Court and set him at liberty forthwith.

For Petitioner : Mr.N.Pragalathan

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 mother of the detenu viz., Esakkipandi @ Vijay, son of Devendhiran, aged about 22 years. The detenu has been detained by the second respondent by his order in M.H.S.Confdl No.79/2023, dated 05.08.2023, holding him to be a "Goonda", as contemplated under Section 2(f) of Tamil Nadu Act 14 of 1982. The said order is under challenge in this habeas corpus petition.

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.



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3. Though several points have been raised by the learned counsel for the petitioner, it is stated that the detention order is liable to be quashed on the ground of non-application of mind on the part of the Detaining Authority, while passing the impugned detention order. According to the learned counsel for the petitioner, at Page No.37 of the booklet, the Detaining Authority has referred to the Accident Register in respect of the victim Rajan in the ground case. As per the impugned detention order, the incident is stated to have been taken place on 17.07.2023 and as per the said Accident Register, the victim has been admitted in the Hospital on 18.07.2023. However, the signature of the Doctor shows that the said Accident Register has been signed on 07.07.2023. Though a clarification in this regard is sought for, no reply has been given by the Detaining Authority. On that score alone, the impugned detention order is liable to be set aside..

4. On a perusal of the Booklet, it is seen that at page No.37, the Detaining Authority has referred Accident Register in respect of the victim Rajan in the ground case. As per the impugned detention order, the occurrence is alleged to have been taken place on 17.07.2023 and as per the Accident Register, the victim has been admitted in the Hospital on



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WEB C 18.07.2023. However, the signature of the Doctor shows that the Accident Register has been signed on 07.07.2023. Though the petitioner has sought for a clarification in respect of the said discrepancy in the date, no clarification is furnished to the petitioner by the Detaining Authority. Therefore, we are of the view that the impugned detention order is liable to be dismissed on the ground of non-application of mind.

5. In the result, the Habeas Corpus Petition is allowed and the order of detention in M.H.S.Confd1 No.79/2023, dated 05.08.2023, passed by the second respondent is set aside. The detenu, viz., Esakkipandi @ Vijay, son of Devendhiran, aged about 22 years, is directed to be released forthwith unless his detention is required in connection with any other case.

[A.D.J.C., J.] [K.R.S., J.]

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NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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To:

- 1.The Additional Chief
Secretary to Government,
Home, Prohibition and Excise Department,
State of Tamil Nadu,
Secretariat, Chennai-600 009.
- 2.The District Collector and District Magistrate,
Tirunelveli District,
Tirunelveli.
- 3.The Superintendent of Prison,
Central Prison,
Palayamkottai, Tirunelveli.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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AND
K.RAJASEKAR, J.
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