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HCP No. 416 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03-06-2025

CORAM

**THE HONOURABLE MR JUSTICE M.S. RAMESH
AND
THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN**

HCP No. 416 of 2025

Saradha

Petitioner

Vs

1. The Secretary To The Government,
Government Of Tamilnadu
(Home) Prohibition And Excise Department,
Fort St.George, Chennai-600 009.

2.The Commissioner Of Police
Salem City, Salem District.

3.The Superintendent
Central Prison, Salem.

4.Inspector Of Police
Annadanapatty Police Station,
Salem District.

Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus, to call for the records connected with the order of the



2nd respondent herein concerned in CMP No.110/Goonda/Salem City/2024 dated 20.12.2024 and quash the order of detention passed therein by the 2nd respondent herein against the detenu and consequently directing the respondents herein to produce the body and person of the detenu by name Kandasamy aged about 42 years, son of Duraisamy now detained at Central Prison, Salem before this court and setting him at liberty.

For Petitioner : Mr.M.R.Elavarasan

For Respondents : Mr.E.Raj Thilak,
Additional Public Prosecutor

ORDER

(Order of the Court was made by M.S.RAMESH J.)

M.S.RAMESH, J.

AND

V.LAKSHMINARAYANAN, J.

The petitioner herein, who is the wife of the detenu namely Kandasamy S/o. Duraisamy, aged about 42 years, confined at Central Prison, Salem, has come forward with this petition challenging the detention order passed by the second respondent dated 20.12.2024 issued against her husband, branding him as "Goonda" under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Cyber Law Offenders, Drug Offenders, Forest Offenders,



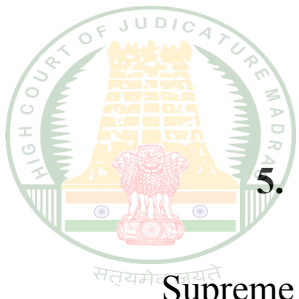
Goondas, Immoral Traffic Offenders, Sand Offenders, Sexual Offenders, Slum
Grabbers and Video Pirates Act, 1982 [Tamil Nadu Act 14 of 1982].

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2. Heard the learned counsel for the petitioner, as well as the learned
Additional Public Prosecutor appearing for the respondents.

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 that the detenu was furnished with illegible copies in the booklet.
Hence, it is submitted that the detenu was deprived of making effective
representation.

4. On a perusal of Volume I of the Booklet, it is seen that Page No.22 in
the booklet furnished to the detenu, are illegible. This furnishing of illegible
copies of the vital document would deprive the detenu of making effective
representation to the authorities against the order of detention.



5. In this context, it is useful to refer to the judgment of the Hon'ble Supreme Court in '**Powanammal Vs. State of Tamil Nadu**' reported in '**(1999)**

2 SCC 413'. The Hon'ble Supreme Court, after discussing the safeguards embodied in Article 22[5] of the Constitution, observed that the detenu should be afforded an opportunity of making representation effectively against the Detention Order and that, the failure to supply every material in the language which can be understood by the detenu, is imperative. In the said context, the Hon'ble Supreme Court has held in Paragraphs 9 and 16 {as in SCC journal} as follows:

“9. However, this Court has maintained a distinction between a document which has been relied upon by the detaining authority in the grounds of detention and a document which finds a mere reference in the grounds of detention. Whereas the non-supply of a copy of the document relied upon in the grounds of detention has been held to be fatal to continued detention, the detenu need not show that any prejudice is caused to him. This is because the non-supply of such a document would amount to denial of the right of being communicated the grounds and of being afforded the opportunity of making an effective



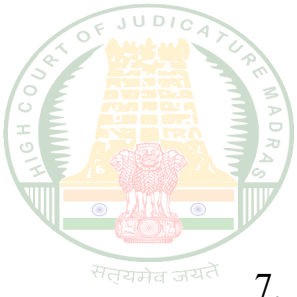
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representation against the order. But it would not be so where the document merely finds a reference in the order of detention or among the grounds thereof. In such a case, the detenu's complaint of non-supply of document has to be supported by prejudice caused to him in making an effective representation. What applies to a document would equally apply to furnishing a translated copy of the document in the language known to and understood by the detenu, should the document be in a different language.

..... **16.***For the above reasons, in our view, the non-supply of the Tamil version of the English document, on the facts and in the circumstances, renders her continued detention illegal. We, therefore, direct that the detenue be set free forthwith unless she is required to be detained in any other case. The appeal is accordingly allowed.”*

6. In view of the ratio laid down by the Hon'ble Supreme Court and in view of the aforesaid facts, this Court is of the view that the detention order is liable to be quashed.



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7. Hence, for the aforesaid reasons, the detention order passed by the second respondent on 20.12.2024 in C.M.P.No.110/Goonda/Salem City/2024, is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Kandasamy S/o. Duraisamy, aged about 42 years, confined at Central Prison, Salem, is directed to be set at liberty forthwith, unless he is required in connection with any other case.

(M.S.RAMESH J.) (V.LAKSHMINARAYANAN J.)
03-06-2025

nl

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No



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