

H.C.P.(MD) No.605 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.09.2025

CORAM:

**THE HONOURABLE MR.JUSTICE C.V. KARTHIKEYAN
AND
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

H.C.P.(MD) No.605 of 2025

Devi ...Petitioner/Wife of the detenu

Vs.

1.The State of Tamil Nadu,
Rep. By its Additional Chief Secretary to Government,
Home Prohibition and Excise Department,
Fort St.George, Secretariat,
Chennai-600 009.

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

3.The Inspector of Police,
Rajapalayam North Police Station,
Virudhunagar District.

4.The Superintendent of Prison,
Central Prison,
Madurai.

... Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus to call for the records in pursuant to the proceedings of the second respondent in his proceedings in CrI.M.P.No. 02/2025 (Gooda) dated 03.02.2025 and set aside the same and direct the respondents 1 to 3 to produce the detenu, namely Muthukumar, S/o.Thiruppathy aged about 35 years, before this Court now confined in in Central Prison, Madurai, before this Court and set him at liberty.

For Petitioner : Mr.M.Jothi Basu

For Respondents : Mr.A.Thiruvadi Kumar

Additional Public Prosecutor

ORDER

The petitioner is the wife of the detenu, Muthukumar, S/o.Thiruppathy aged about 35 years. The detenu has been detained by the second respondent by his order in CrI.M.P.No.02/2025 (Gooda) dated 03.02.2025 holding him to be a "Goonda", as contemplated under Section 3(1) of the 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



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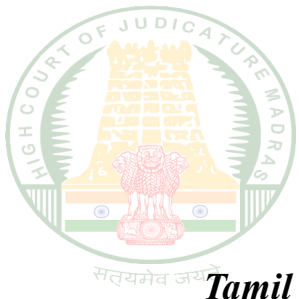
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petitioner and the learned Additional Public Prosecutor appearing for the respondents. We have also perused the records produced by the Detaining Authority.

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 copy of the 'Remand Order' relied on by the Detaining Authority, more particularly at Page No.261 of the first booklet. Hence, it is submitted that the detenu was deprived of making effective representation.

4. On a perusal of the Booklet, it is seen that Page No.261 of the Booklet, which is the 'Remand Order', furnished to the detenu, is illegible. This furnishing of illegible copy 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 Honourable Supreme Court in the case of *Powanammal vs. State of*



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Tamil Nadu, reported in (1999) 2 SCC 413, wherein the Apex Court, after discussing the safeguards embodied in Article 22(5) of the Constitution of India, observed that the detenu should be afforded an opportunity of making a 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. The relevant portion of the said decision is extracted hereunder:

"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 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



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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 nonsupply 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 detenu be set free forthwith unless she is required to be detained in any other case. The appeal is accordingly allowed."

6. We find that the above cited **Powanammal**'s case applies in all force to the case on hand as we find that non-furnishing of legible copy of the document relied on by the Detaining Authority at Page No.261 of the Booklet. This illegible copy of remand order to the detenu, has impaired his constitutional right to make an effective representation against the impugned preventive detention order. To be noted, this



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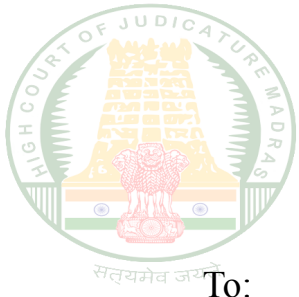
constitutional right is ingrained in the form of a safeguard in Clause (5) of Article 22 of the Constitution of India. We, therefore, have no hesitation in quashing the impugned detention order.

7. In the result, the Habeas Corpus Petition is allowed and the order of detention in CrI.M.P.No.02/2025 (Gooda) dated 03.02.2025 passed by the second respondent is set aside. The detenu, viz., Muthukumar, S/o.Thiruppathy aged about 35 years, is directed to be released forthwith unless his detention is required in connection with any other case.

[C.V.K., J.] [R.V., J.]

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