



HCP(MD)No.665 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.07.2025

CORAM:

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

and

THE HONOURABLE MS.JUSTICE R.POORNIMA

HABEAS CORPUS PETITION(MD)No.665 of 2025

M.Muthu

... Petitioner

vs.

1. State of Tamil Nadu,
rep. by the Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George,
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, calling for the entire records connected with the detention order passed in MHS.Confdl.No.159/2024, dated 16.09.2024 on the



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file of the 2nd respondent herein and quash the same and direct the respondents to produce the detenu or body of the detenu namely the petitioner's son i.e., Kombaiah, aged about 22 years, S/o. Murugan, now detained t the 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 detenu viz., Kombaiah, S/o. Murugan, aged about 22 years,. The detenu has been detained by the second respondent by his order in MHS.Confdl.No.159/2024, dated 16.09.2024, 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.

3. Though several points have been raised by the learned counsel for the



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petitioner, it is stated that the translation of the page No.59 is said to have been

placed at page No.61 of the 1st Booklet is defective and thereby, the detenu was deprived of making effective representation.

4. Learned Additional Public Prosecutor appearing for the respondents strongly opposed the habeas corpus petition by filing his counter. He would further submit that though the detenu was furnished with defective translated copy of page No.59 at page No.61 of the 1st Booklet, on that score alone, it cannot be quashed. According to the learned Additional Public Prosecutor, no prejudice has been caused to the detenu and therefore prays for dismissal of the habeas corpus petition.

5. On a perusal of the page Nos.59 and 61 of 1st Booklet, we find that there is defect in the translation and it is improper.

6. In this context, it is useful to refer to the Judgment of the Honourable Supreme Court in the case of ***Powanammal vs. State of 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



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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 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.

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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."

7. We find that the above cited **Powanammal**'s case applies in all force to the case on hand as we find that the translated copy of Page No.59, furnished at page No.61 of the 1st Booklet is defective. This furnishing of defective copy to the detenu, has impaired his constitutional right to make an effective representation against the impugned preventive detention order. To be noted, this 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.

8. In the result, the Habeas Corpus Petition is allowed and the order of detention in MHS.Confdl.No.159/2024, dated 16.09.2024, passed by the second respondent is set aside. The detenu, viz., Kombaiah, S/o. Murugan, aged about 22 years, is directed to be released forthwith unless his detention is



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required in connection with any other case.

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[A.D.J.C., J.] [R.P., J.]
28.07.2025

Index : Yes / No
Neutral Citation : Yes / No
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To:

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Home, Prohibition and Excise Department,
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2. The District Collector and District Magistrate,
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4. The Additional Public Prosecutor,
Madurai Bench of Madars High Court,
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AND
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ORDER MADE IN
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