



HCP(MD)No.1572 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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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.1572 of 2024

Shanthi

... Petitioner

vs.

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

2. The Commissioner of Police,
Office of the Commissioner,
Trichy.

3.The Superintendent of Prison,
Trichirappalli Central Prison,
Tiruchirappalli.

... 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 of the respondent No.2 in C.No.106/Detention/CPO/TC/2024, dated 08.11.2024 and quash the same and direct the respondents to produce the body or period of the detenu by name Marirajan, Son of Muthu Alagiriswamy, aged about 59 years, now detained as “Bootlegger” at Trichy Central Prison before this Court and set him at liberty forthwith.



HCP(MD)No.1572 of 2024

For Petitioner : Dr.R. Alagumani

For Respondents : Mr.A.Thiruvadi Kumar
Additional Public Prosecutor

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ORDER

[Order of the Court was made by **A.D.JAGADISH CHANDIRA, J.**]

The petitioner is the wife of detenu viz., Marirajan, Son of Muthu Alagiriswamy, aged about 59 years. The detenu has been detained by the second respondent by his order in C.No.106/Detention/CPO/TC/2024, dated 08.11.2024, holding him to be a "Boot-Legger", as contemplated under Section 2(b) 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 petitioner, it is submitted that the detention order is liable to be quashed on the ground that the detenu was unable to understand the contents of the handwritten document at Page No. 27 of Volume I of the booklet. As a result, he could not



HCP(MD)No.1572 of 2024

ascertain whether the clear copy furnished at Page No. 28 was an accurate typed reproduction of the original handwritten content. Furthermore, it is submitted that the documents at Page Nos. 44 and 46 of Volume I of the booklet are not clear. Therefore, the detenu was deprived of the opportunity to make an effective representation.

4. The learned Additional Public Prosecutor fairly submitted that documents relied at page Nos. 44 and 46 of Volume I of the booklet are not clear.

5. On a perusal of the Booklet, it is seen that the document relied upon at Page No. 28, which is the typed version of Page No. 27 is illegible. Furthermore documents relied on at Page Nos.44 and 46 are not clear. Non furnishing of legible and clear translation copy of the vital documents would deprive the detenu of making effective representation to the authorities against the order of detention.

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



HCP(MD)No.1572 of 2024

the safeguards embodied in Article 22(5) of the Constitution of India, observed

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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 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



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HCP(MD)No.1572 of 2024

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 detenue 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 the typed version of page No.27 represented at Page No.28 of the Volume I of the Booklet is illegible and further the documents at Page Nos.44 and 46 are not clear. This furnishing of illegible 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.

7. In the result, the Habeas Corpus Petition is allowed and the order



HCP(MD)No.1572 of 2024

of detention in C.No.106/Detention/CPO/TC/2024, dated 08.11.2024, passed by

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the second respondent is set aside. The detenu, viz., Marirajan, Son of Muthu Alagiriswamy, aged about 59 years, is directed to be released forthwith unless his detention is required in connection with any other case.

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

Index : Yes / No
Neutral Citation : Yes / No
trp

To:

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

2. The Commissioner of Police,
Office of the Commissioner,
Trichy.

3. The Superintendent of Prison,
Trichirappalli Central Prison,
Tiruchirappalli.

4. The Additional Public Prosecutor,
Madurai Bench of Madars High Court,
Madurai.



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HCP(MD)No.1572 of 2024

**A.D.JAGADISH CHANDIRA, J.
AND
R.POORNIMA, J.**

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**ORDER MADE IN
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DATED : 28.07.2025