



H.C.P.(MD)No.1391 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.01.2026

CORAM:

THE HONOURABLE MR JUSTICE G.K. ILANTHIRAIYAN

AND

THE HONOURABLE MS.JUSTICE R. POORNIMA

H.C.P.(MD)No.1391 of 2025

Abarna

... Petitioner/
Wife of the Detenu

-VS-

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

2.The District Collector and District Magistrate,
Collectorate Office,
Thoothukudi.

3.The Superintendent of Prison,
Central Prison Palayamkottai,
Tirunelveli District.

... Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus, calling for the entire records, connected with the detention order of the respondent No.2 in Detention Order H.S(M)Confdl.No.49 of 2025, dated 29.05.2025 and quash the same and to direct the respondents to produce the body or person of the detenu by name Esakkimuthu, son of Karuthapandi, aged about 22 years, now confining as “Goonda” at Palayamkottai Central Prison, before this Court and set him at liberty forthwith.

For Petitioner : Mr.M.Danush Kumar

For Respondents : Mr.T.Senthil Kumar
Additional Public Prosecutor

ORDER

(Order of the Court was made by **G.K. ILANTHIRAIYAN,J.**)

The petitioner is the wife of the detenu viz., Esakkimuthu, son of Karuthapandi, aged about 22 years. The detenu has been detained by the second respondent by his order in H.S(M) Confdl.No.49 of 2025, dated 29.05.2025, holding him to be a "Drug Offender", as contemplated under Section 2(e) of Tamil Nadu Act 14 of 1982. The said order is under challenge in this habeas corpus petition.



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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 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 Nos.165 to 167. 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 Nos.165 to 167 of the Booklet, which is the remand report, furnished to the detenu, is illegible. This furnishing of illegible copy would deprive the detenu of making effective representation to the authorities against the order of detention.



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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 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:

"6. The short question that falls for our consideration is whether failure to supply the Tamil version of the order of remand passed in English, a language not known to the detenue, would vitiate her further detention.

...

...

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.



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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.

...

...

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,



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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 non-furnishing of legible copy of the remand report 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 fine, the Habeas Corpus Petition is allowed. The detention order passed in H.S(M)Confdl.No.49 of 2025, 29.05.2025, by the 2nd respondent, is set aside. Consequently, the detenu viz., Esakkimuthu, S/o.Karuthapandi, aged about 22 years, who is now detained in Central Prison, Palayamkottai, is directed to be released



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forthwith, unless his presence or custody or detention is required in connection with any other case.

8. It is also made clear that if any bail application filed by the detenu, the trial Court is directed to dispose of the bail application on its own merits and in accordance with law, without influencing any of the observation made by this Court.

[G.K.I., J.] [R.P., J.]

09.01.2026

am

NCC :Yes/No

Index: Yes/No

Internet: Yes/No



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- 2.The District Collector and District Magistrate,
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Madurai Bench of Madras High Court,
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AND
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