
(2014) 04 MAD CK 0063
In the Madras High Court
Case No : H.C.P. No. 2164 of 2013

Anitha

APPELLANT

Vs

The State of Tamil Nadu

RESPONDENT

Date of Decision : 01-04-2014

Acts Referred:

Penal Code, 1860 (IPC) — Section 294(b), 324, 341, 392, 397

Citation : (2014) CriLJ 3678

Hon'ble Judges : V. Dhanapalan, J;M. Duraiswamy, J

Bench : Division Bench

Judgement

V. Dhanapalan, J.—The petitioner is the sister of the detenu and challenge is made to the order of detention dated 12.09.2013 made in BDFGISSV No. 978/2013, passed by the second respondent under which the detenu has been branded as a "Goonda" and detained under the Prevention of Black Marketing and Maintenance of Supplies of Essential Commodities Act, 1980 (Central Act 7 of 1980). As per the grounds of detention dated 12.09.2013, the detenu came to the adverse notice in the following cases:-

2. In para 3 of the grounds of detention, it is stated that the detenu is also involved in the commission of the offence, which took place on 02.09.2013 at 10.30 hours, which led to the registration of a case by Inspector of Police, S-1 St. Thomas Mount Police Station, in Crime No. 993 of 2013 for the offences under Sections 341, 294(b), 324, 427, 392, 506(ii), I.P.C., subsequently altered into one under Sections 341, 294(b), 324, 427, 392, 397 and 506(ii), I.P.C. It is further stated that the detenu was arrested on the same day and produced before the Judicial Magistrate, Alandur, Chennai and remanded to judicial custody. The detaining authority, on being satisfied upon the materials placed before him that the activities of the detenu are prejudicial to the maintenance of public order, clamped the order of detention. Challenging the said order, the petitioner is before this Court by way of this habeas corpus petition.

3. Amidst several grounds raised, learned counsel for the petitioner pointed out

that there is variation in the translated version of the detention order. He would point out that in the English version of the grounds of detention in para 3, the concerned Magistrate Court was mentioned as Judicial Magistrate, Alandur, Chennai whereas in the vernacular version, it has been mentioned as Judicial Magistrate, Tambaram, Chennai - 45. Therefore, this would create confusion in the mind of the detenu, which prevented him from making effective representation for redressal of his grievance.

4. We have heard the learned Additional Public Prosecutor on the above submission of the learned counsel for the petitioner and perused the records.

5. For appreciating the contentions raised by the learned counsel for the petitioner, the relevant averments in para 3 of the English version of the grounds of detention are extracted hereunder:

"3.....Further, the arrest intimation of the accused Thiru. Anbu alias Anbazhagan was given to his sister Tmt. Anitha on the same day. Later the Inspector of Police produced accused Thiru. Anbu alias Anbazhagan before the Court of Judicial Magistrate, Alandur, Chennai, on 02.09.2013 who ordered the accused to be remanded till 16.09.2013 and lodged him at Central Prison, Puzhal, Chennai, as remand prisoner....."

whereas, para 3 of the vernacular version of the grounds of detention reads as under:

(Vernacular matter omitted.....Ed.)

6. From a reading of the above, it is crystal clear that the detaining authority has not applied his mind while mentioning the place of Court, while clamping the order of detention, which has prevented the detenu from making an effective representation for redressal of his grievance. Therefore, the defective translation would vitiate the order of detention. On this sole ground, the order of detention is liable to be quashed. In the result, this habeas corpus petition is allowed and the impugned detention order made in BDFGISSV No. 978/2013 dated 12.09.2013, is set aside. The detenu - Anbu alias Anbazhagan, S/o. Paramasivam, is directed to be set at liberty forthwith, unless his custody is required in connection with any other case.