
(2013) 08 MAD CK 0040
In the Madras High Court
Case No : H.C.P. No. 813 of 2013

Ezhilarasi

APPELLANT

Vs

State of Tamil Nadu and Another

RESPONDENT

Date of Decision : 14-08-2013

Acts Referred:

Citation : (2013) 3 MLJ(Cri) 647

Hon'ble Judges : V. Dhanapalan, J;C.T. Selvam, J

Bench : Division Bench

Advocate : S. Saravana Kumar, for the Appellant; M. Maharaja, Additional Public Prosecutor, for the Respondent

Judgement

V. Dhanapalan, J.—The petitioner is the wife of the detenu. The detenu has been branded as a ""Goonda"" as contemplated under Tamil

Nadu Act 14 of 1982 and detained under the order of the 2nd respondent passed in C1/D.O./10/2013 dated 25.2.2013. The detenu came to

adverse notice in the following cases:

The ground case alleged against the detenu is one registered by the Inspector of Police, Neyveli Thermal Town Police Station in Crime No. 34 of

2013 for offences under Sections 341, 386 and 307 I.P.C. Aggrieved by the order of detention, the present petition has been filed.

2. Though the learned counsel for the petitioner has raised several grounds, he mainly focussed his submissions to assail the order of detention, that

there is no cogent material to support the decision of the detaining authority as to the real possibility of the detenu being released on bail in Crime

No. 34 of 2013 registered for offences under Sections 341, 386 and 307 I.P.C., i.e. the ground case and indulge in any activities prejudicial to the

public order. Therefore, the order passed by the detaining authority is without application of mind and without any cogent material.

3. We have heard the learned Additional Public Prosecutor also on the above submission.

4. In paragraph 5 of the detention order, it is stated as follows:

5. I am aware that Thiru. Davamani, S/o. Shanmugam has been remanded to judicial custody upto 8.3.2013 and lodged at Central Prison,

Cuddalore in connection with Neyveli Thermal Police Station Crime Number 34 of 2013. I am aware that there is real possibility of his coming out

on bail by filing bail application for the above case before the concerned Court or Higher Court. However, if he comes out on bail, he will indulge

in future activities, which will be prejudicial to the maintenance of public order. Further the recourse to normal criminal law would not have the

desired effect of effectively preventing him from indulging in such activities which are prejudicial to the maintenance of public order. On the

materials placed before me, and after careful perusal of records and his antecedents, I am satisfied that the said Thiru. Davamani, S/o. Shanmugam

is a Goonda as per Section 2(f) of Tamil Nadu Act 14 of 1982 and there is compelling necessity to detain him in order to prevent from indulging in

such activities which are prejudicial to the maintenance of public order under the provisions of Tamil Nadu Act 14 of 1982.

5. A scrutiny of the above order and on verification of the records, it is evident that there is no cogent material to support the decision of the

detaining authority as to the imminent possibility of the detenu coming out on bail. While so, in the absence of any material information about the

possibility of filing bail application by the detenu before the appropriate Court, the conclusion arrived at by the detaining authority to detain the

detenu as to the imminent possibility of the detenu coming out on bail, is with total non-application of mind and without subjective satisfaction.

Therefore, the detention order is vitiated in law. Accordingly, the impugned detention order passed by the 2nd respondent, detaining the detenu,

namely, Davamani, S/o. Shanmugam, made in C1/D.O. No. 10 of 2013 dated 25.2.2013, is quashed and the Habeas Corpus Petition is allowed.

The above named detenu, who is detained in Central Prison, Cuddalore is ordered to be set at liberty forthwith, unless his custody is required in

connection with any other case. However, it is made clear that the present order shall not give any advantage to the detenu in any of the regular proceedings.