
(2014) 03 MAD CK 0203

In the Madras High Court

Case No : Habeas Corpus Petition No. 3166 of 2013

Kalyani

APPELLANT

Vs

The State of Tamil Nadu

RESPONDENT

Date of Decision : 26-03-2014

Acts Referred:

Citation : (2014) 1 LW(Cri) 641 : (2014) 2 MLJ(Cri) 513

Hon'ble Judges : V. Dhanapalan, J;G. Chockalingam, J

Bench : Division Bench

Final Decision : Allowed

Judgement

V. Dhanapalan, J.—The petitioner is the wife of detenu. The detenu has been branded as a "Black Marketeer" under the Tamil Nadu Act 14 of 1982 and detained under order of the 2nd respondent passed in S.C. No. 26 of 2013 dated 26.11.2013. The ground case alleged against the detenu is one registered on 11.11.2013 by the Inspector of Police, Krishnagiri CSCID in Crime No. 353 of 2013 for offences u/s 6(4) of TNSC (RDCS) Order, 1982 r/w 7(i)(a)(ii) of EC Act, 1955. Aggrieved by the order of detention, the present petition has been filed.

2. Though learned counsel for the petitioner has raised several other grounds to assail the order of detention, he has mainly focussed his argument on the ground that the detaining authority, while detaining the detenu, has not furnished legible copy of the bail dismissal order, which was annexed in the booklet and the same has deprived the detenu to make his effective representation. He has submitted that the said act of detaining authority is against the judgment of the Hon"ble Supreme Court in the case of Manjeet Singh Grewal v. UOI and Ors. . . He has further submitted there is also variation in translation of the said bail order and therefore, on these grounds, the detention order is liable to be quashed.

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

4. On consideration of the submissions made on either side and upon perusal of

the documents available on record, especially Page Nos. 83 & 84 of the booklet, it is clear that the detaining authority, by providing illegible copy of document, which is the bail dismissal order passed by the learned Judicial Magistrate No. 1, Dharmapuri, dismissing the bail application filed by the detenu, has taken away the rights of detenu to effectively defend himself against his detention.

5. The Hon''ble Supreme Court in the case of Manjit Singh Grewal @ Gogi vs. Union of India and others (supra) has been pleased to hold as under:

3. It appears that the appellant had asked for certain copies of the documents, which admittedly were there with the respondent-Union of India. Copies of the documents were supplied, but the same were not legible. This position is also apparent. It is not necessary in the facts of this case to go into the question whether these documents were relevant or material.

4. In view of the fact that the copies of the documents were, in fact, supplied at the request of the appellant, but the copies supplied were illegible, we are of the opinion, that the safeguards provided by the Constitution have not been followed. In that view of the matter the decision of the High Court cannot be sustained and, therefore, is set aside. The Order of detention dated June 9, 1988 is quashed and the appellant be set at liberty unless he is required in respect of any other proceedings.

6. Further, a comparison of English version of the said bail order with that of Tamil version reveals defect in translation. While the English version informs of the following:

... The Bail application was filed on 14.11.13 and Since reply yet to be recovered, this application is heard and considering the accusation against the petitioner and circumstances of the case, this petition is dismissed

the Tamil version informs thus,

7. Thus, in the light of the above settled position, in view of supply of illegible copy of bail dismissal order, that too with defective translation and also considering the fact that safeguards provided by the Constitution have not been followed, the impugned detention order passed by the 2nd respondent, detaining the detenu Krishnan @ Kutti Krishnan, S/o. Mariappan, made in S.C. No. 26 of 2013 dated 26.11.2013 is quashed and the Habeas Corpus Petition is allowed. The above named detenu, who is detained at the Central Prison, Salem, is ordered to be set at liberty forthwith, unless his custody is required in connection with any other case. However, this order shall not preclude authorities concerned to effectively contest the matter before the Regular Court. It is also made clear that this order shall not confer any right whatsoever to the detenu to claim anything before the Regular Court.