

(2014) 03 MAD CK 0146
In the Madras High Court
Case No : HCP No. 2261 of 2013

Kavitha

APPELLANT

Vs

The Secretary to the Government Home

RESPONDENT

Date of Decision : 10-03-2014

Acts Referred:

Constitution of India, 1950 — Article 22(5)

Penal Code, 1860 (IPC) — Section 294(b), 336, 34, 341, 384

Citation : (2014) CriLJ 2785 : (2014) 1 LW(Cri) 633

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 the detenu. The detenu has been branded as a "Goonda" as contemplated under Tamil Nadu Act 14 of 1982 and detained under order of the 2nd respondent passed in No. 1087/BDFGISSV/2013 dated 22.09.2013. The detenu came to adverse notice in the following cases:-

Sr. No.

Police Station and Crime No.

Sections of Law

1

K-9, Thiru-Vi-Ka Nagar Police Station, Crime No. 640 of 2011

Sections 341, 448, 427, 294(b) and 506(ii) IPC r/w 34 IPC.

2

K-9, Thiru-Vi-Ka Nagar Police Station, Crime No. 692 of 2011

Sections 341, 336, 427, 392, 397 and 506(ii) IPC

3

K-9, Thiru-Vi-Ka Nagar Police Station, Crime No. 1974 of 2012

Section 401 IPC

4

K-5, Peravallur Police Station, Crime No. 2043 of 2013

Sections 341, 384 and 506(ii) IPC

The ground case alleged against the detenu is one registered on 18.09.2013 by the Inspector of Police, K-9, Thiru-Vi-Ka Nagar Police Station in Crime No. 1421 of 2013 for the offences under Sections 341, 294(b), 336, 427, 397 and 506(ii) IPC. Aggrieved by the order of detention, the present petition has been filed.

2. Amidst several grounds, learned counsel for the petitioner submits that there is a variation between English and Tamil Version of the remand order passed in Crime No. 1421 of 2013 on 19.09.2013. While the English version informs that the detenu has been remanded to judicial custody till 03.10.2013, Tamil version states the remand till 03.09.2013 and therefore, on this sole ground the detention order is liable to be quashed.

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

4. On verification of the booklet at Page Nos. 81 and 82, it comes to light that there is a contradiction in translation between English and Tamil Version in respect of the same document, viz., remand order. Thus, when there is a discrepancy between English and Tamil version, the opportunity of him making an effective representation upon knowledge of the factual situation stands denied. The same, which amounts to an infringement of right ensured under Article 22(5) of the Constitution of India, would vitiate the order of detention. For the aforesaid reason, the impugned order of detention cannot be sustained. Accordingly, the impugned detention order passed by the 2nd respondent, detaining the detenu, namely, Viji @ Vijayakumar, S/o. Babu, made in No. 1087/BDFGISSV/2013 dated 22.09.2013 is quashed and the Habeas Corpus Petition is allowed. The above named detenu, who is detained in the Central Prison, Puzhal, Chennai is ordered to be set at liberty forthwith, unless his custody is required in connection with any other case.