
(2014) 06 MAD CK 0214
In the Madras High Court
Case No : H.C.P. No. 2461 of 2013

Mamu	Vs	APPELLANT
State of Tamilnadu		RESPONDENT

Date of Decision : 03-06-2014

Acts Referred:

Constitution of India, 1950 — Article 22(5)
Penal Code, 1860 (IPC) — Section 294(b), 302, 307, 341, 384

Citation : (2014) 06 MAD CK 0214

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

Bench : Division Bench

Final Decision : Allowed

Judgement

V. Dhanapalan, J.—The petitioner is the detenu herein. He has been branded as a "Goonda" under the Tamil Nadu Act 14 of 1982 and detained under the order of the 2nd respondent passed in No. 1002/BDFGISSV/2013 dated 14.09.2013.

2. The detenu came to adverse notice in the following cases:-

Sl.No.

Police Station and Crime No.

Sections of Law

1.

H-6 R.K. Nagar Police Station Crime No. 941/2012

307 IPC

2.

E-5 Sholavaram Police Station Crime No. 449/2012

302 IPC

3.

B-3 Fort Police Station Crime No. 93/2013

341, 294(b), 384 & 506(ii) IPC

The ground case alleged against the detenu is one registered on 07.09.2013 by the Inspector of Police, Crime, B-1, North Beach Police Station in Crime No. 693/2013 for offences under Sections 341, 294(b), 427, 392, 397 and 506(ii) IPC.

3. Besides several grounds to assail the order of detention, learned counsel for the petitioner focussed his arguments on the ground that though the detaining authority arrived at the subjective satisfaction that there is a likelihood of the detenu coming out on bail in respect of Crime No. 93/2013 by filing bail application before the appropriate court, there is no cogent material to support the decision of the detaining authority and therefore, on this sole ground, the detention order is liable to be quashed.

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

5. For better appreciation of the case, relevant portion of the detention order is extracted hereunder:

4. The sponsoring authority has stated that the relatives of Thiru.Mamu @ Syed Ibrahim are taking action to take him out on bail in B-3 Fort P.S.Cr.No. 93/2013 by filing bail application before the appropriate court.

6. A reading of the detention order shows that the detaining authority has arrived at a subjective satisfaction that the relatives of the detenu are taking action to bail out the detenu in Crime No. 93/2013 by filing bail application before the appropriate court. It is true that the detaining authority is empowered to take a decision if there is material to support the possibility of the detenu coming out on bail. But, on verification of the material documents, it is seen that no cogent material is available to support the decision of the detaining authority. The same, which amounts to infringement of right ensured under Article 22(5) of the Constitution of India, vitiates the order of detention. Thus, for the reason stated hereinabove, the impugned detention order cannot be sustained.

7. Accordingly, the impugned detention order passed by the 2nd respondent, detaining the detenu Mamu @ Syed Ibrahim made in No. 1002/BDFGISSV/2013 dated 14.09.2013 is quashed and the Habeas Corpus Petition is allowed. The above named detenu is ordered to be set at liberty forthwith, unless his custody is required in connection with any other case.

8. However, it is made clear that this order shall not preclude the authorities concerned to effectively contest the matter before the Regular Court, uninfluenced by the above order. It is also made clear that this order shall not confer any right or advantage whatsoever to the detenu to claim anything before

the Regular Court.