
(2013) 08 MAD CK 0188
In the Madras High Court
Case No : H.C.P. No. 781 of 2013

N. Deepa

APPELLANT

Vs

Secretary to Government, Home, Prohibition and Excise
Department and Another

RESPONDENT

Date of Decision : 14-08-2013

Acts Referred:

Citation : (2014) 1 LW(Cri) 209 : (2013) 3 MLJ(Cri) 652

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

Bench : Division Bench

Advocate : Senthilvel and K. Elangovan, for the Appellant; M. Maharaja,
Additional Public Prosecutor, for the Respondent

Final Decision : Allowed

Judgement

V. Dhanapalan, J.—The petitioner is the sister 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 S.C. No. 7 of 2013, dated 14.3.2013. The detenu came to adverse notice in the following cases:

The ground case alleged against the detenu is one registered on 3.2.2013 by the Sub-Inspector of Police, HUDCO Police Station in Crime No. 74 of 2013 for offences u/s 392 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, the only ground urged before us is that, it is the mandatory obligation of the detaining authority to furnish all the documents which they have relied upon to detain the detenu, in the language known to him, to enable him make an effective representation. He would contend that non-furnishing of the documents in the language familiar to the detenu is prejudicial to his rights and therefore, the detention order is vitiated.

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

4. A scrutiny of the Booklet produced by the learned Additional Public Prosecutor would reveal that the Bail order pertaining to the first adverse case in Crime No. 26 of 2012 as found in page 23, is furnished in English and that the Tamil version of it is not furnished to the detenu. Further, the Bail order pertaining to the third adverse case in Crime No. 92 of 2012 also is furnished only in English.

5. Noticing the said position, learned Additional Public Prosecutor, would submit that the detenu was not furnished with the Tamil version of the abovementioned bail orders.

6. The Constitution requires that the grounds must be communicated in a language understood by the person concerned so that he can make an effective representation. What applies to a document would equally apply to furnishing a translated copy of the document in the language known to and understood by the detenu. Therefore, the detention order passed against the detenu is vitiated in law. For the above reasons, in our view, non-supply of the Tamil version of the English documents, on the facts and in the circumstances, renders the continued detention of the detenu illegal. Hence, the impugned detention order passed by the 2nd respondent, detaining the detenu, namely, Prakash @ Pakka, aged 25 years, S/o. Thiru. Nagaraj, made in S.C. No. 7 of 2013 dated 14.3.2013, is quashed and the Habeas Corpus Petition is allowed. The above named detenu, who is detained in Central Prison, Salem 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.