
(2014) 07 MAD CK 0200
In the Madras High Court
Case No : H.C.P. No. 2991 of 2013

Rama	Vs	APPELLANT
The Commissioner of Police		RESPONDENT

Date of Decision : 04-07-2014

Acts Referred:

Penal Code, 1860 (IPC) — Section 147, 148, 294(b), 302, 336

Citation : (2014) 07 MAD CK 0200

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

Bench : Division Bench

Judgement

G. Chockalingam, J.—The petitioner is the mother 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 first respondent passed in BDFGISSV No.1532/2013, dated 05.11.2013.

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

Sr. No.

Police Station and Crime No.

Sections of Law

1.

R-6 Kumaran Nagar Police Station, Crime No. 2287/2013

147, 148, 341, 302 and 506(ii) IPC

The ground case alleged against the detenu is one registered on 20.09.2013 by the Sub-Inspector of Police, R-6, Kumaran Nagar Police Station in Crime No.2289 of 2013 for the offences under Sections 147, 148, 341, 294(b), 427, 336, 397 and 506(ii) IPC. Aggrieved by the order of detention, the present petition has been filed.

3. Though learned counsel for the petitioner has raised several other grounds to assail the order of detention, he has mainly focused his argument on the ground that the detaining authority, while detaining the detenu, has not furnished the legible copies of the documents relied on by him and this deprived the detenu from making effective representation. He has also submitted that the said act of detaining authority is against the judgment of the Hon''ble Supreme Court in the case of Manjit Singh Grewal @ Gogi vs. Union of India and others, reported in : 1990 (Supp) SCC 59. Further, though in the remand order dated 23.09.2013 in respect of first adverse case in Crime No.2287 of 2013 it has been stated that accused 1 to 6 produced, only the names of four accused have been shown in the cause title. Therefore, on both these grounds, the detention order is liable to be quashed.

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

5. On consideration of the submissions made on either side and upon perusal of the documents available on record, especially Page Nos.141 and 145 of the booklet - copies of list of properties sent to Magistrate and Page Nos.165 and 169 of the booklet - copy of confession statement given by the accused Palani, it is clear that the detaining authority, by providing illegible copies of the documents, has taken away the rights of detenu to effectively defend himself against his detention. Further, at page No.67 of the booklet, though it has been stated in the remand order dated 23.09.2013 in respect of first adverse case in Crime No.2287 of 2013 that accused 1 to 6 produced, only the names of four accused have been shown in the cause title.

6. 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.

7. Thus, in the light of the above settled position, in view of supply of illegible copies of the documents and also considering the fact that safeguards provided by the Constitution have not been followed, the impugned detention order passed by the first respondent, detaining the detenu Udaya @ Udayakumar, S/o.

Ravi, made in BDFGISSV No.1532/2013, dated 05.11.2013 is quashed and the Habeas Corpus Petition is allowed. The above named detenu, who is detained at the Central Prison, Puzhal, Chennai, 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.