

(2014) 03 MAD CK 0085
In the Madras High Court
Case No : H.C.P. No. 2223 of 2013

Sivagama Sundari

APPELLANT

Vs

The Secretary to the Government

RESPONDENT

Date of Decision : 24-03-2014

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 62
Penal Code, 1860 (IPC) — Section 294(b), 336, 341, 379, 392

Citation : (2014) CriLJ 3556 : (2014) 1 LW(Cri) 636 : (2014) 2 MLJ(Cri) 385

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

Bench : Division Bench

Final Decision : Allowed

Judgement

V. Dhanapalan, J.—The petitioner is the mother of the detenu and challenge is made to the order of detention dated 12.09.2013 made in Memo No. 980/BDFGISSV/2013 passed by the second respondent under which the detenu has been branded as a "Goonda" and detained under sub-section (1) of section 3 of the Tamilnadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982) read with the order issued by the Government in G.O. (D) No. 120, Home, Prohibition and Excise (XVI) Department, dated 18.07.2013 under sub-section (2) of section 3 of the Tamil Nadu Act, 1982. The detenu came to adverse notice in the following cases:

Sr. No.

Police Station and Crime No.

Sections of Law

1

K-7 ICF Police Station Crime No. 1183/2011

379 IPC

2

K-7 ICF Police Station Crime No. 1189/2011

379 IPC

3

K-7 ICF Police Station Crime No. 1248/2011

379 IPC

4

K-7 ICF Police Station Crime No. 672/2013

341, 294(b), 336, 427, 392, 397 and 506(ii) IPC

The ground case alleged against the detenu is one registered on 07.09.2013 by the Inspector of Police, K.7 ICF Police Station in Crime No. 695/2013 under Sections 341, 294(b), 336, 427, 392, 397 and 506(ii) IPC.

2. It is seen that the detenu was arrested on 07.09.2013 and is in remand. The detaining authority, on being satisfied upon the materials placed before him that the activities of the detenu are prejudicial to the maintenance of public peace and public order, clamped the order of detention. Challenging the said order, petitioner is before this Court by way of this Habeas Corpus Petition.

3. The main thrust of the arguments made by the learned counsel for the petitioner is that there is variation in the translation of vital information, which would deprive the detenu from making an effective representation for redressal of his grievance. Learned counsel would point out that there is variation in the translation of the Arrest Report as could be found in pages 177 and 179 of the booklet, as regards the details pertaining to remand. Therefore, the impugned order of detention is vitiated in law.

4. We have heard the learned Additional Public Prosecutor on the above submission of the learned counsel for the petitioner.

5. For appreciating the contentions raised by the learned counsel for the petitioner, the English and Tamil version of the Arrest Report are extracted hereunder:

Arrest Report u/s 62 Cr.P.C.

1

FIR No./PS& Offence

K.7 ICF P.S.-Cr. No. 672/2013 u/s. 341, 294(b), 336, 427, 392, 397 and 506(ii) IPC

2

Date of Commission

7/9/13

3

Name of the person arrested

Dinesh, M/A 25 S/o. ShyamSoundararaj No. 3, Venkateswara St., RajajiNagar, Villivakkam, Chennai-49.

4

Taken into custody when and by whom

07.09.2013 at 14.25 hrs Constable Road, near Ambedkar Statue North East 3 km-Inspector and party

5

Date & Hour of bringing to Station

07.09.2013 at 16.15 hours

6

How disposed of with Date & Hour of disposed

Sent to remand

6. A reading of the above would show that the detaining authority has relied on the Arrest Report, the English and Tamil version of which are found in pages 177 and 179, respectively, of the booklet, wherein there is variation in translation with regard to the details pertaining to "remand". In the English version, against the column "How disposed of with date & Hour of disposed", it is plainly stated "sent to remand". Whereas, in the Tamil version, it is stated as such variation in the translation would definitely cause confusion to the detenu in making an effective representation. Therefore, the defective translation would vitiate the order of detention and on this sole ground, the order of detention is liable to be quashed. In the result, this Habeas Corpus Petition is allowed and the impugned detention order made in Memo No. 980/BDFGISSV/2013, dated 12.09.2013, is set aside. The detenu-Dhinesh, S/o. Shyam Soundararaj, is directed to be set at liberty forthwith, unless his custody is required in connection with any other case.