

Sumathi Vs. State of Tamil Nadu

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Court : Chennai

Decided On : Jun-18-2014

Judge : V.Dhanapalan

Appellant : Sumathi

Respondent : State of Tamil Nadu

Judgement :

IN THE HIGH COURT OF JUDICATURE AT MADRAS DATED : 18.06.2014
CORAM THE HONOURABLE MR.JUSTICE V.DHANAPALAN and THE
HONOURABLE MR.JUSTICE G.CHOCKALINGAM H.C.P.No.2731 of 2013
Sumathi .Petitioner versus 1.State of Tamil Nadu rep.

By The Secretary to Government, Home, Prohibition and Excise Department, Fort
St.

George, Chennai 9.

2.The District Collector and District Magistrate, Thiruvapur District,
Thiruvapur.Respondents Petition filed under Article 226 of the Constitution of India
praying for a writ of habeas corpus, directing the respondents to produce the
petitioner's husband by name Mathiyalagam, S/o.Govindarajan, aged 52 years
before this Court now confined in Central Prison, Thiruchirapalli, set him at liberty
and to call for the records pertaining to the order of detention passed in
C.O.C.No.31/2013 dated 24.10.2013 passed by the second respondent and set

aside the same.

For Petitioner : Mr.T.Muruganantham For Respondents : Mr.P.Govindarajan, Addl.
Public Prosecutor

ORDER

(Order of the Court was made by V.DHANAPALAN, J.) The petitioner is the wife of the detenu.

The detenu has been branded as a ".Sand Offender".

as contemplated under Tamil Nadu Act 14 of 1982 and detained under order of the 2nd respondent passed in C.O.C.No.31/2013 dated 24.10.2013.

2.

The detenu came to adveRs.notice in the following cases:- Sl.No.Police Station and Crime No.Sections of Law 1.

Peralam Police Station, Crime No.389 of 2012 430, 379 IPC2 Peralam Police Station, Crime No.517 of 2013 420 IPC, 21 (IV) Mines and Mineral Act and 379 IPC3 Peralam Police Station Crime No.526 of 2013 420 IPC, 21 (IV) Mines and Mineral Act and 379 IPC The ground case alleged against the detenu is one registered on 16.10.2013 by the Inspector of Police, Peralam Police Station in Crime No.530 of 2013 for the offences under Sections 294(b).353, 324, 307, 420 IPC, 21(IV) of Mines and Mineral Act and 379 IPC.

Aggrieved by the order of detention, the present petition has been filed.

3.Amidst several grounds raised, learned counsel for the petitioner mainly focused his argument on the ground that there is variation in the translated version of the remand order.

Therefore, the subjective satisfaction arrived by the detaining authority is not well founded.

4. We have heard the learned Additional Public Prosecutor appearing for the respondents on the above submission and perused the material documents available on record.

5. A perusal of the booklet would show that in the English version of the remand order dated 16.10.2013, it has been stated that Nature of complaint and grounds of arrest informed.

Prima facie made out. whereas in the vernacular version, the words nature of complaint were omitted to be translated and the words prima facie made out has been wrongly translated as तह;F cUthf;fg;gl;IJ@.

The said omission as well as improper translation in the vernacular version of the remand order, prevented the detenu from making an effective representation.

In the English version of the remand order dated 16.10.2013 found at Page No.77 of the booklet, it is stated thus: ".A1, A2 produced at 11.00 p.m. Nature of complaint and grounds of arrest informed.

No complaint against police.

Prima facie made out.

Hence accused are remanded to judicial custody till 30.10.13."

whereas, in the vernacular version found at the same page, it has been stated as under: ".V1.

V2 ,ut[11/00 kzpf;F M\$h;gLj;jg;gl;lhh;/ ifJf;fhd mog;gil fhuzk; kw;Wk; bjhptpf;fg;gl;IJ.fhtyUf;F vjpuhf g[fhh; ,y;iy/ tHf;F cUthf;fg;gl;IJ.Fw;wthsp ePjpkd;w fhtypy; 30/10/2013 tiu milg;g[fhtypy; cs;shh;/@ 6. When there is a variation in translation, opportunity of clear understanding and making effective representation on such understanding is lost and the detenu is deprived thereof.

The defective translation amounts to an infringement of right ensured under Article 22(5) of the Constitution of India.

Therefore, on this sole ground, the impugned order of detention is liable to be quashed.

7.In the result, this habeas corpus petition is allowed and the impugned detention order made in C.O.C.No.31/2013 dated 24.10.2013, is set aside.

The detenu - Mathiyalagan, S/o.Govindarajan, is directed to be set at liberty forthwith, unless his custody is required in connection with any other case.

(V.D.P.,J.) (G.C.,J.) 18.06.2014 Index:Yes/No Internet:Yes/No mmi To 1.The Secretary to Government, Home, Prohibition and Excise Department, Fort St.

George, Chennai 9.

2.The District Collector and District Magistrate, Thiruvarur District, Thiruvarur.

3.The Superintendent, Central Prison, Trichy.

4.The Public Prosecutor, High Court, Madras.

V.DHANAPALAN, J.

and G.CHOCKALINGAM,J.

mmi HCP No.2731 of 2013 18.06.2014

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