

A.Mannankatti Vs. State

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Court : Chennai

Decided On : Jun-18-2014

Judge : V.Dhanapalan

Appellant : A.Mannankatti

Respondent : State

Judgement :

IN THE HIGH COURT OF JUDICATURE AT MADRAS Dated:

18. 06.2014 Coram: THE HON'BLE MR.JUSTICE V.DHANAPALAN and THE HON'BLE MR.JUSTICE G.CHOCKALINGAM H.C.P.No.3088 of 2013 A.Mannankatti ... Petitioner -vs- 1. State represented by The Secretary of Government of Tamilnadu, Home, Prohibition and Excise Department, Secretariat, Chennai.

2. The Commissioner of Police, Chennai Police, Office of the Commissioner of Police (Goondas Section), Egmore, Chennai 600 008. ... Respondents Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Habeas Corpus, directing the respondent to produce the detenu petitioner's son namely, Murugan, son of Apparasu, aged about 26 years, who was detained in Central Prison at Puzhal, Chennai as per Detention Order passed by the 2nd respondent in BDFGISSV/No.1419/2013 dated 23.10.2013 and branded him Goonda, before this Court and set him at liberty. For petitioner :

ORDER

(Order of the Court was made by V.Dhanapalan,J.) The petitioner is the mother of the detenu. The detenu 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 Memo No.1419/BDFGISSV/2013, dated 23.10.2013.

2. The detenu came to adverse notice in the following cases:- Sl.No.Police Station and Crime No.Sections of Law 1. M-3, Puzhal Police Station Crime No.736/2010 379 @ 302, 201 & 379 IPC2 M-4, Redhills Police Station Crime No.1916/2013 392, 397 IPC3 M-3, Puzhal Police Station Crime No.1688/2013 392, 397 IPC The ground case alleged against the detenu is one registered on 05.10.2013 by the Inspector of Police, Crime, M-3 Puzhal Police Station in Crime No.1692/2013 for offences under Sections 341, 336, 392, 397 and 506(ii) IPC.

3. Though the learned counsel for the petitioner has raised several other grounds to assail the order of detention, he mainly focused his arguments on the ground that there is variation in translation of the remand order dated 05.10.2013 annexed in pages 134 and 135 of the booklet, which has deprived the detenu in making effective representation to the authorities concerned 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. A careful scrutiny of the booklet and a comparison of the English version of the remand order dated 05.10.2013 annexed in Page No.134 of the booklet with the Tamil version annexed in page 135 would reveal some defects in translation. The English version of the remand order reads thus: Accused produced at 5.00 pm. Grounds of arrest & legal aid explained. No complaints of ill-treatment by police. Remanded to judicial custody till 18.10.2013. The Tamil version reads thus: ".vjphp M\$h;gLj;jg;gl;lhh;/ fhuzk; bjhptpf;fggl;lJ/ g[fhh; VJkpy;iy/ 18/10/2013 tiu milg;g[f; fhtyplg;gLfpwJ/".

6. On verification of the English and Tamil version of the remand order dated 05.10.2013 found at pages 134 and 135 of the booklet, it is seen that there is contradiction in translation. Though in the English version of the remand order, the aspect 'legal aid explained' is mentioned, it is omitted to be translated in the Tamil version. Thus, when there is discrepancy between English and Tamil versions, the opportunity of making effective representation upon knowledge of the factual situation stands denied to the detenu and the same, which amounts to infringement of right ensured under Article 22(5) of the Constitution of India, would vitiate the order of detention.

7. For the aforesaid reason, the impugned detention order passed by the 2nd respondent, detaining the detenu, namely, Murugan made in BDFGISSV No.1419/2013 dated 23.10.2013, 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. [V.D.P.J.], [G.C.J.], 18.06.2014 Index : Yes abe To :

1. The Secretary of Government of Tamilnadu, Home, Prohibition and Excise Department, Secretariat, Chennai.

2. The Commissioner of Police, Chennai Police, Office of the Commissioner of Police (Goondas Section), Egmore, Chennai 600 008.

3. The Public Prosecutor High Court, Madras. V.DHANAPALAN,J.

AND G.CHOCKALINGAM,J.

abe Order in H.C.P.No.3088 of 2013 Dated:

18. 06.2014