

Ganga vs State Rep by,

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Court : Chennai

Decided On : Apr-22-2025

Judge : Honourable Mr Justice M.S. Ramesh, Honourable Mr. Justice N. Senthilkumar

Appeal No. : HCP/147/2025

Appellant : GANGA

Respondent : State Rep by,

Judgement :

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.04.2025

CORAM :

THE HONOURABLE MR. JUSTICE M.S. RAMESH AND THE
HONOURABLE MR. JUSTICE N. SENTHILKUMAR Ganga ... Petitioner
Vs. The State rep. by its, 1.The Secretary to Government (Home),
Prohibition and Excise Department, Government of Tamilnadu, Fort
St.George, Chennai-600 009.

2.The Commissioner of Police, Greater Chennai, Veppery, Chennai-600 007.
3.The Superintendent of Police, Central Prison-Puzhal, Chennai-600 066 4.The
Inspector of Police, R9 Valasaravakkam Police Station, Chennai District. ...
Respondents PRAYER: Petition filed under Article 226 of the Constitution of India
to issue a Writ of Habeas Corpus, calling for the records pertaining to the

**order of detention dated 12.11.2024 passed by the 2nd
respondent bearing**

No.1125/BCDFGISSSV/2024 and quash the same and produce the detenu Raji @
Mottai Raji, S/o.Murali, aged about 24 years, before this Court and set him at
liberty forthwith from Central Prison, Puzhal. For Petitioner : Mr.J.Dinesh For
Respondents : Mr.R.Muniyapparaj, Additional Public Prosecutor assisted by
Mr.M.Sylvester John

ORDER

(Order of the Court was made by M.S. RAMESH, J.) The petitioner herein, who is
the mother of the detenu namely Raji @ Mottai Raji, aged about 24 years,
S/o.Murali, has come forward with this petition challenging the detention order
passed by the second respondent dated 12.11.2024 issued against her son,
branding him as "Goonda" under the Tamil Nadu Prevention of Dangerous
Activities of Bootleggers, Cyber Law Offenders, Drug Offenders, Forest Offenders,
Goondas, Immoral Traffic Offenders, Sand Offenders, Sexual Offenders, Slum
Grabbers and Video Pirates Act, 1982 [Tamil Nadu Act 14 of 1982].

2. Heard the learned counsel for the petitioner, as well as the learned Additional
Public Prosecutor appearing for the respondents.

3. Though several points have been raised by the learned counsel for

the petitioner, it is stated that the detention order is liable to be quashed on the
ground that the detenu was not furnished with improper translated copy of the
memo of evidence. Hence, it is submitted that the detenu was deprived of making
effective representation.

4. On a perusal of the Booklet particularly in page No.9 of Volume -

II, it is seen that a copy of the memo of evidence is partially in Tamil and partially in English and its proper translated copy in vernacular language has not been furnished to the detenu. This non-furnishing of the copy of the vital document would deprive the detenu of making effective representation to the authorities against the order of detention.

5. In this context, it is useful to refer to the judgment of the Hon'ble

Supreme Court in the case of 'Powanammal Vs. State of Tamil Nadu' reported in '(1999) 2 SCC 413'. The Hon'ble Supreme Court, after discussing the safeguards embodied in Article 22[5] of the Constitution, observed that the detenu should be afforded an opportunity of making representation effectively against the Detention Order and that, the failure to supply every material in the language which can be understood by the detenu, is imperative. In the said context, the Hon'ble Supreme Court has

held in Paragraphs 9 and 16 {as in SCC journal} as follows:

9. However, this Court has maintained a distinction between a document which has been relied upon by the detaining authority in the grounds of detention and a document which finds a mere reference in the grounds of detention. Whereas the non-supply of a copy of the document relied upon in the grounds of detention has been held to be fatal to continued detention, the detenu need not show that any prejudice is caused to him. This is because the non-supply of such a document would amount to denial of the right of being communicated the grounds and of being afforded the opportunity of making an effective representation against the order. But it would not be so where the document merely finds a reference in the order of detention or among the grounds thereof. In such a case,

the detenu's complaint of non-supply of document has to be supported by prejudice caused to him in making 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, should the document be in a different language. 16. For the above reasons, in our view, the non-supply of the Tamil version of the English document, on the facts and in the circumstances, renders her continued detention illegal. We, therefore, direct that the detenu be set free forthwith unless she is required to be detained in any other case. The appeal is accordingly allowed.

6. In view of the ratio laid down by the Hon'ble Supreme Court and in view of the aforesaid facts, this Court is of the view that the detention

order is liable to be quashed.

7. Accordingly, the detention order passed by the second respondent

on 12.11.2024 in No.1125/BCDFGISSSV/2024, is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Raji @ Mottai Raji, aged about 24 years, S/o.Murali, is directed to be set at liberty forthwith, unless his confinement is required in connection with any other case. [M.S.R, J.] [N.S, J.]
22.04.2025 Index: Yes/No

Speaking order/Non-speaking order

Internet: Yes/No Neutral Citation: Yes/No Sni To 1.The Secretary to Government (Home), Prohibition and Excise Department, Government of Tamilnadu, Fort St.George, Chennai-600 009.

2.The Commissioner of Police, Greater Chennai, Veppery, Chennai-600 007.

3.The Superintendent of Police, Central Prison-Puzhal, Chennai-600 066 4.The

Inspector of Police, R9 Valasaravakkam Police Station, Chennai District. 5.The

Public Prosecutor, High Court, Madras. 6.The Joint Secretary, Public (Law &

Order), Chennai - 600 009.

M.S.RAMESH, J.

and

N. SENTHILKUMAR, J.

Sni 22.04.2025

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