

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.09.2015

C O R A M

THE HONOURABLE DR.JUSTICE S.TAMILVANAN
AND
THE HONOURABLE MR.JUSTICE C.T.SELVAM

Habeas Corpus Petition No.1293 of 2015

Sasikala
W/o.Thangaraj

... Petitioner

-vs-

1.The State of Tamil Nadu,
represented by its Secretary,
Home, Prohibition & Excise Department,
Fort St.George,
Chennai - 600 009.

2.The Commissioner of Police,
Salem City,
Salem.

... Respondents

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Habeas Corpus calling for the records relating to the order of detention passed by second respondent against the petitioner's husband Thangaraj, S/o.Gopal, in C.M.P.No.39/Video Pirate/Salem City/ 2015 dated 05.05.2015, quash the same and consequently, direct the respondents to produce the detenu, who is confined at Central Prison, Salem, before this Court and set him at liberty.

For Petitioner : Mr.K.Selvaraj
For Respondents : Mr.M.Maharaja,
Additional Public Prosecutor

O R D E R

(The order of the Court was made by S.TAMILVANAN, J.)

Petitioner is the wife of the detenu, who has been branded as a "Video Pirate" under the Tamil Nadu Act 14 of 1982 and detained under orders of second respondent passed in C.M.P.No.39/Video Pirate/Salem City/ 2015 dated 05.05.2015. Such order is under challenge herein.

2. The ground case has been registered against the detenu in Crime No.198 of 2015 on the file of Ammapet Police Station for offences u/s.51(a) r/w 63 & 52(A) r/w 68(A) Copy Right Act, 1957 and 292(2) (a) IPC.

3. Amidst several contentions, learned counsel for petitioner submits that the permission to conduct search of the shop wherein the cassettes allegedly were illegally held was in English. No Tamil translation thereof has been provided to the detenu. The same adversely has affected the detenu's right of making an effective representation.

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

5. Non furnishing of Tamil translation of 'search order' would deprive the detenu the opportunity of making effective representation to the authorities concerned. The same which amounts to an infringement of right enshrined under Article 22(5) of the Constitution of India, would vitiate the order of detention. For the aforesaid reason, this Court would allow the present petition.

This Habeas Corpus Petition is allowed. The impugned order passed by second respondent, against the detenu Thangaraj, S/o.Gopal, made in C.M.P.No.39/Video Pirate/Salem City/ 2015 dated 05.05.2015, is quashed. The detenu is ordered to be set at liberty forthwith, unless his custody is required in connection with any other case.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

gm

To

1.The Secretary,
Home, Prohibition & Excise Department,
Fort St.George,
Chennai - 600 009.

2.The Commissioner of Police,
Salem City,
Salem.

3.The Superintendent of Central Prison,
Salem.

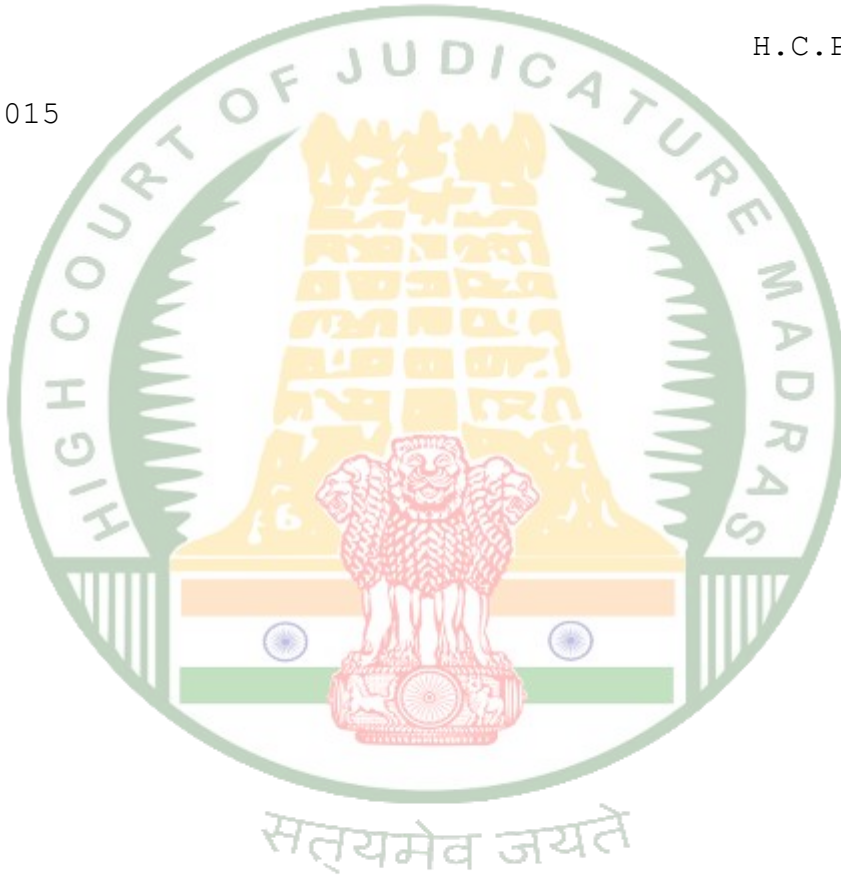
4.The Joint Secretary to Government
Public (Law & Order)
Fort St.George,Chennai-9

5.The Public Prosecutor,
High Court, Chennai.

2 cc to Mr. K.Selvaraj, Advocate Sr.No.48432/15

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pmk.1.10.2015

H.C.P.No.1293 of 2015



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