

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 02.09.2015

Coram:

THE HON'BLE DR.JUSTICE S.TAMILVANAN
and
THE HON'BLE MR.JUSTICE C.T.SELVAM

H.C.P.No.1403/2015

Inipotha

... Petitioner

-vs-

1.The State represented by
Secretary to Government (Home)
Prohibition and Excise Department
Fort St. George, Chennai - 9.

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

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Habeas Corpus, calling for the entire records in pursuant to the detention order issued by the second respondent vide C3.D.O.No.45/2015 dated 29.04.2015 and set aside the same and consequently direct the respondents to produce the detenu Nagu @ Nagaraj, S/o.Setu aged about 28 years son of the petitioner now confined at Central Prison, Vellore before this Court and set him at liberty forthwith.

For petitioner : Mr.M.Sathish Kumar
For respondents : Mr.Maharaja
Addl. Public Prosecutor

सत्यमेव जयते
O R D E R

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

The petitioner is the father of the detenu herein. The detenu has been branded as a "Sand Offender" under the provisions of the the Tamil Nadu 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] and detained under the order of the second respondent passed in C3/D.O.No.45/2015 dated 29.04.2015.

2.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 in the Remand Order in respect of the ground case [Cr.No.259/2015] as well as the adverse case [Cr.No.69/2015], 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.

3.We have heard the learned Additional Public Prosecutor on the above submission made by the learned counsel for the petitioner.

4.A careful scrutiny of the Booklet furnished to us, both the English version and the Tamil Version, would reveal some defects in translation with regard to the Remand Order in the ground case as well as the adverse case. On verification of the English and Tamil version of the Remand Order in respect of the adverse case as well as the ground case in Page Nos.14, 15, 38 and 39 of the booklet , it is seen that there is contradiction in translation. In the English version, it is stated that "Section 41(A) Cr.P.C. Complied" whereas in the Tamil version, it is stated as Section 41(A) Cr.P.C. is applicable. 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.

5.For the aforesaid reason, the impugned detention order passed by the second respondent is quashed and the Habeas Corpus Petition is allowed. 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

cse
To

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1.The Secretary to Government (Home)
Prohibition and Excise Department
Fort St. George, Chennai - 9.

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

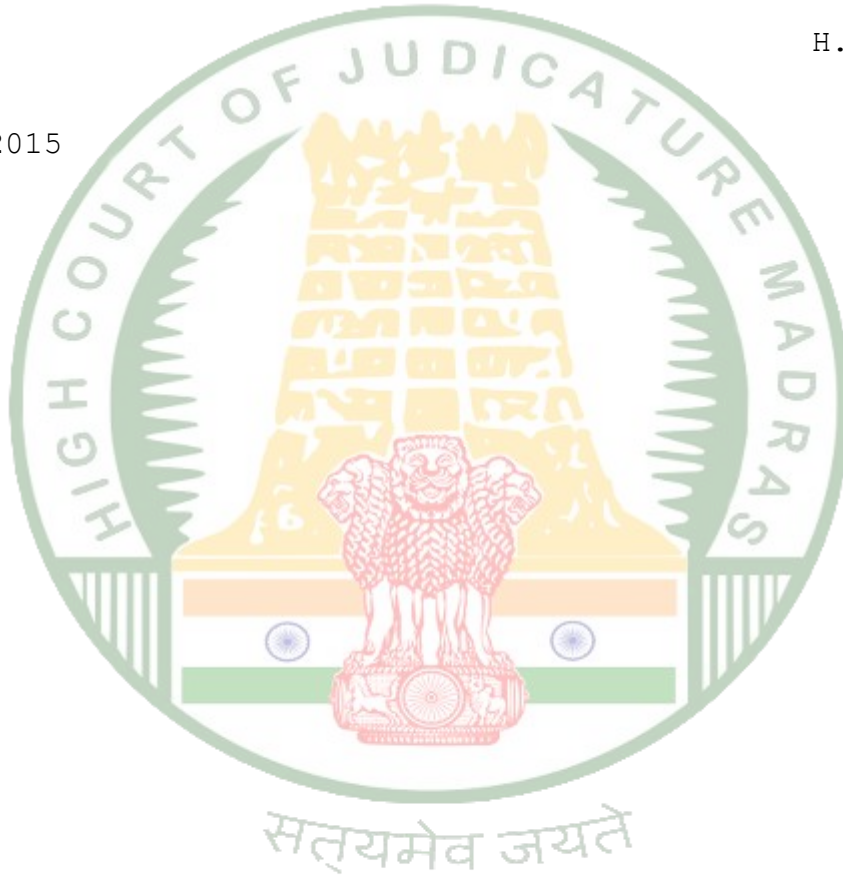
3.The Superintendent of Central Prison
Vellore.

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

5.The Public Prosecutor
High Court, Madras.

H.C.P.No.1403/2015

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