

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.10.2015

CORAM

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

H.C.P.No.1640 of 2015

Markrat
W/o.Late Francis

...Petitioner

Vs.

1. The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Fort St.George,
Chennai - 600 009.

2. The Commissioner of Police/Detaining Authority,
O/o.The Commissioner Office,
Coimbatore City,
Coimbatore.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Habeas Corpus to call for the records pertaining to detention order passed by second respondent in C.No.28/G/IS/2015 dated 29.06.2015 against the detenu F.Louis Josewa @ Josewa @ Jose S/o.Francis, aged 24, quash the same and consequently, direct the respondents to produce the detenu, who is confined at Central Prison, Coimbatore, before this Court and set him at liberty.

For Petitioner : Mr.S.Vinoth

For Respondents : Mr.M.Maharaja,
Additional Public Prosecutor

O R D E R

[Order of the Court was made by S.TAMILVANAN, J.]

Petitioner is the mother of the detenu, who has been branded as a "Goonda" under the Tamil Nadu Act 14 of 1982 and detained under orders of second respondent passed in C.No.28/G/IS/2015 dated 29.06.2015. Such order is under challenge herein.

2. The detenu came to adverse notice in the following cases:

Sl. No.	Name of the Police Station and Crime No.	Section of Law
1	Coimbatore City, B-7 Ramanathapuram Police Station, Crime No.121 of 2014	302 IPC
2	Coimbatore City, B-7 Ramanathapuram Police Station, Crime No.124 of 2014	294(b) and 307 IPC
3	Coimbatore City, B-7 Ramanathapuram Police Station, Crime No.37 of 2015	448, 427, 294 (b), 323 and 506(i) IPC
4	Coimbatore City, B-7 Ramanathapuram Police Station, Crime No.167 of 2015	392 IPC

The ground case has been registered against the detenu in Crime No.276 of 2015 on the file of B-7 Ramanathapuram Police Station for offences under Sections 392 r/w 397 and 506(ii) IPC.

3. Learned counsel for petitioner submits despite the admitted position that the detenu has not filed any bail application in the fourth adverse case, the detaining authority has informed a real possibility of his coming out on bail by filing a bail application since in a similar case bail was granted by learned Principal District and Sessions Judge, Coimbatore, in Crl.M.P.No.1881 of 2012 in respect of Crime No.408 of 2012 on the file of Coimbatore City, B-1 Bazaar Police Station, for offence u/s.392 IPC. The documents relating to the case treated as similar to that of the detenu has not been forwarded to the detenu. Instead thereof, bail application and bail order in respect of Crime No.638 of 2012 has been enclosed. Learned counsel informs that the same has adversely affected his right of making an effective representation.

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

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

The detention order passed by second respondent, detaining the detenu F.Louis Josewa @ Josewa @ Jose S/o.Francis, aged about 24 years, made in C.No.28/G/IS/2015 dated 29.06.2015, 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.

The present order is only for the purpose of disposal of this petition and shall not have any bearing upon connected criminal cases pending before the competent Court.

Sd/-
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

gm

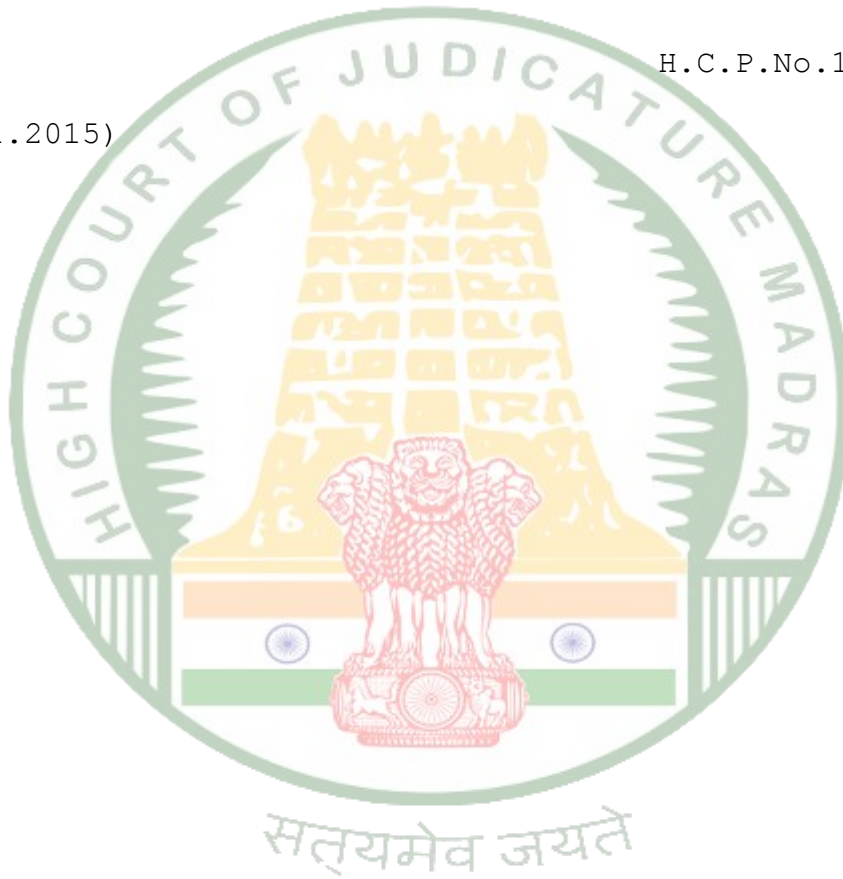
To

1. The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Fort St.George,
Chennai - 600 009.
2. The Commissioner of Police/Detaining Authority,
O/o.The Commissioner Office,
Coimbatore City, Coimbatore.

3. The Superintendent of Central Prison
Coimbatore.
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.1640 of 2015

PPA (CO)
PSI (26.11.2015)



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