

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.10.2015

C O R A M

THE HONOURABLE MR.JUSTICE C.T.SELVAM  
AND  
THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

Habeas Corpus Petition No.1771 of 2015

S.Saravanan  
S/o.Sivalingam

...Petitioner

-vs-

The State represented by its

1. The Secretary to Government (Home),  
Prohibition and Excise Department,  
Secretariat,  
Chennai - 600 009.
  2. The District Collector and District Magistrate,  
Vellore District.
- ...Respondents

Writ petition under Article 226 of the Constitution of India filed praying for issuance of a Writ of Habeas Corpus to call for the records pertaining to detention order passed by second respondent against the detenu Srinivasan S/o.Shanmugam, aged about 45 years, in C3.D.O.No.61 of 2015 dated 28.06.2015, quash the same and consequently, to direct the respondents to produce the detenu, who is at present confined at Central Prison, Vellore, before this Court and set him at liberty.

For Petitioner : Mr.S.Swamidoss Manokaran

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

O R D E R

(The order of the Court was made by C.T.SELVAM, J.)

Petitioner is the cousin of the detenu Srinivasan S/o.Shanmugam, who has been branded as "Bootlegger" under the Tamil Nadu Act 14 of 1982 and detained under orders of second respondent passed in C3.D.O.No.61 of 2015 dated 28.06.2015. Such order is under challenge herein.

2. The detenu came to adverse notice in Crime No.556 of 2014 on the file of Vaniyambadi Prohibition Enforcement Wing for offences u/s.4(1)aaa, 4(1-A) ii Tamil Nadu Prohibition Act, 1937 r/w 7 of TNRS Rules, 2000. The ground case has been registered against the detenu in Crime No.285 of 2015 on the file of Vaniyambadi Prohibition Enforcement Wing for offences u/s.4(1)aaa, 4(1-A)ii Tamil Nadu Prohibition Act r/w 7 of Tamil Nadu Rectified Spirit Rules, 2000.

3. Learned counsel for petitioner brings to notice that the samples in relation to the ground case were seized on 23.05.2015 but were deposited into the Court under Form-95 only on 29.05.2015. This aspect has not received the attention of the detaining authority. Learned counsel, therefore, submits that the subjective satisfaction arrived at by the detaining authority is erroneous.

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

5. A perusal of the order under challenge informs that learned counsel for petitioner is right in his submission. We find that the order of detention does suffer from non application of mind. The order under challenge would have to fall.

This Habeas Corpus Petition is allowed. The detention order passed by second respondent against the detenu Srinivasan S/o.Shanmugam, made in C3.D.O.No.61 of 2015 dated 28.06.2015, 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(CO)

//True Copy//

Sub Assistant Registrar

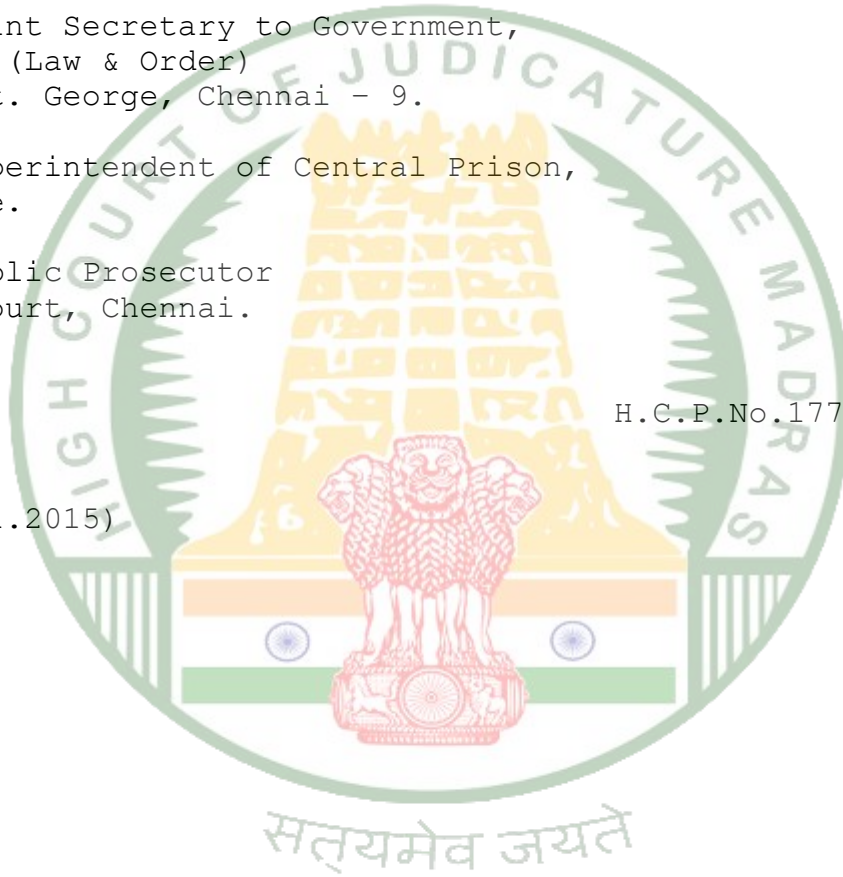
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To

1. The Secretary to Government (Home),  
Prohibition and Excise Department,  
Secretariat, Chennai - 600 009.
2. The District Collector and District Magistrate,  
Vellore District.
3. The Joint Secretary to Government,  
Public (Law & Order)  
Fort St. George, Chennai - 9.
4. The Superintendent of Central Prison,  
Vellore.
5. The Public Prosecutor  
High Court, Chennai.

H.C.P.No.1771 of 2015

VD (CO)  
PSI (02.11.2015)



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