

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.12.2015

CORAM

THE HONOURABLE MR.JUSTICE R.SUDHAKAR
and
THE HONOURABLE MR.JUSTICE P.N.PRAKASH

H.C.P.No.1837/2015

Chinnasamy @ Kumarimuthu

..

Petitioner

Vs.

1.The District Magistrate & District Collector
Namakkal District, Namakkal.

2.The Secretary to Government
Home, Prohibition & Excise Department
Chennai 600 009.

..

Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Habeas Corpus to call for the records in CMP No.9/Goonda/2015/M1 dated 10.02.2015 passed by the first respondent, set aside the same and direct the respondents to produce the detenu Chinnasamy @ Kumarimuthu, aged 50 years now detained in Central Prison, Salem, before this Court and set him at liberty.

For Petitioner : Mr.V.K.R.Balakrishnan
For respondents : Mr.M.Maharaja
Additional Public Prosecutor

O R D E R
सत्यमेव जयते

[Order of the Court was made by R.SUDHAKAR, J.]

Challenge is made to the order of detention passed by the 1st respondent vide Proceedings in CMP.No.9/Goonda/2015/M1 dated 10.02.2015 whereby, the petitioner herein/the detenu was ordered to be detained as a "Goonda" under the provisions of 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 [Tamilnadu Act 14 of 1982].

2.As per the grounds of detention dated 10.02.2015, passed by the 1st respondent, the detenu came to adverse notice in the following cases:

i)Adverse Cases:

Sl No.	Name of the Police station and Crime No.	Section of law
1	Elachipalayam PS Cr.No.166/2014	457, 511 IPC
2	Namakkal PS Cr.No.862/2014	457, 380 IPC
3	Tiruchengode Town PS Cr.No.646/2014	379 IPC
4	Tiruchengode Town PS Cr.No.654/2014	379 IPC

(ii) Ground Case:

Sl No.	Name of the Police station and Crime No.	Section of law
1	Velur PS Cr.No.668/2014	294[b], 323, 387, 506[ii] IPC

3.Though many grounds have been raised in the petition, Mr.V.K.R.Balakrishnan, the learned counsel appearing for the petitioner, confines his argument only in respect of non-application of mind on the part of the detaining authority in passing the order of detention.

4.Learned counsel appearing for the petitioner submitted that the Detaining Authority has relied upon a similar case registered by Velur Police Station in Cr.No.406/2014 wherein bail was granted to the accused by the learned Principal District and Sessions Judge, Namakkal in CrI.MP.No.1037/2014 on 09.07.2014. But the vernacular version [the only language which the detenu understands], viz., the Tamil version, of the said bail order has not been furnished to the detenu though the English version is furnished in page No.92 of the Booklet. This non-furnishing of the important document in the vernacular version has deprived of the detenu from making an effective representation. This has not been duly verified by the Detaining Authority before passing the order of detention. Therefore, it is submitted that this is indicative of total non-application of mind on the part of the detaining authority and the same vitiates the detention order and is unsustainable in law.

5.Per contra, the learned Additional Public Prosecutor would submit that the order of detention has been passed on cogent and sufficient materials and the same cannot be interfered with at the instance of the petitioner. Therefore, he submits that the Habeas Corpus Petition does not merit any consideration and the same is liable to be dismissed.

6.We have heard the learned counsel for both sides with regard to the facts.

7.As evidenced from page 92 of the Booklet furnished to the detenu, the English version of the Bail order relating to the similar case in Cr.No.406/2014 registered by the Velur Police Station, has been furnished and the vernacular version of the same has not been furnished to the detenu. The non-furnishing of the vital document in the vernacular version, viz., in the Tamil version, which language the detenu could understand, has deprived the detenu from making an effective representation. Whatever documents referred to and relied upon by the Detaining Authority has to be translated and given in Tamil version, as the detenu knows only Tamil. Therefore, the above discrepancy vitiates the detention order and the same is liable to be set aside.

8.In the light of the above facts, we have no hesitation in quashing the order of detention on the above mentioned grounds.

9. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order passed by the 1st respondent is set aside. The detenu is directed to be released forthwith unless his presence is required in connection with any other case.

-Sd/-

Asst.Registrar

/true copy/

Sub Asst. Registrar

AP

To

1.The District Magistrate & District Collector
Namakkal District, Namakkal.

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2.The Secretary to Government
Home, Prohibition & Excise Department
Chennai 600 009.

3.The Public Prosecutor, High Court, Madras.

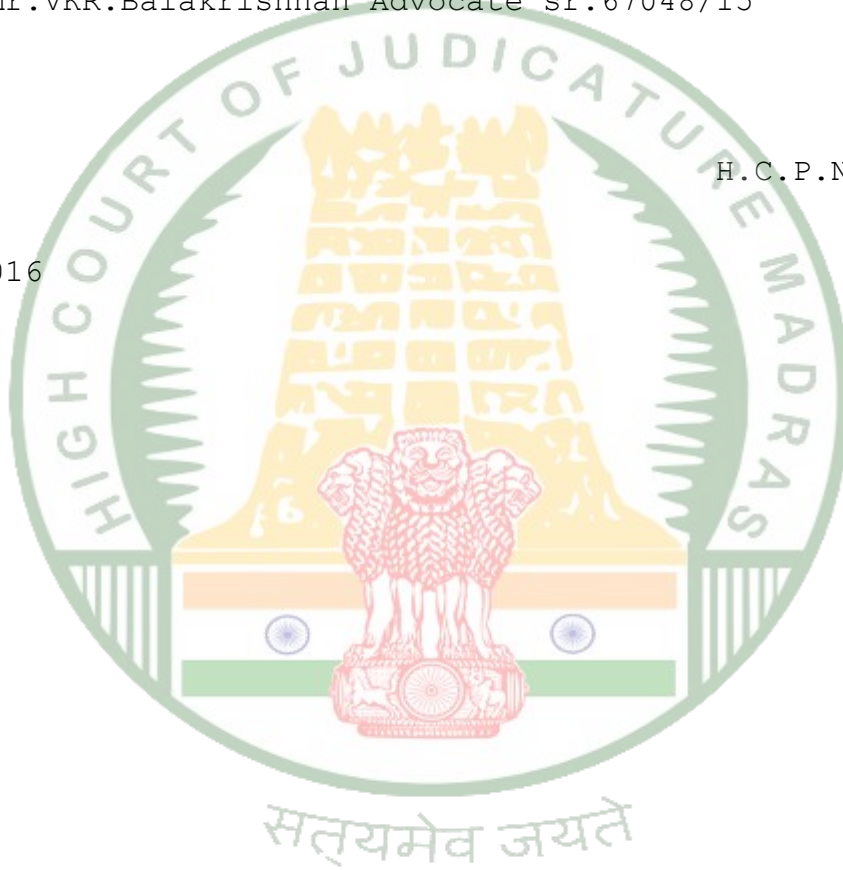
4.The Superintendent Central Prison, Salem

5.The Joint Secretary to Government,
Public Law and Order Fort St.George
Chennai-9

+1 cc to Mr.VKR.Balakrishnan Advocate sr.67048/15

H.C.P.No.1837/2015

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