

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.10.2015

C O R A M

THE HONOURABLE MR.JUSTICE C.T.SELVAM

AND

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

Habeas Corpus Petition No.1902 of 2015

Suresh,
S/o.Ramesh

... Petitioner

-vs-

1. State of Tamil Nadu,
rep. by its Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.

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

... 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 entire records relating to the petitioner's brother detention under Tamil Nadu Act 14 of 1982 vide detention order, dated 28.06.2015 on the file of the second respondent herein made in proceedings D.O. No.33/2015-C2 and quash the same as illegal and consequently direct the respondents herein to produce the said petitioner's brother namely Dinesh @ Krishnakumar, son of Ramesh, aged 30 years, before this Court and set the petitioner's brother at liberty from detention, now petitioner's brother detained at Central Prison, Vellore.

For Petitioner : Mr.C.C.Chellappan

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 brother of the detenu Dinesh @ Krishnakumar, son of Ramesh, who has been branded as "Goonda" under the Tamil Nadu Act 14 of 1982 and detained under orders of second respondent passed in proceedings D.O. No.33/2015-C2 dated 28.06.2015. Such order is under challenge herein.

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

Police Station and Crime No.	Sections of Law
Tiruvannamalai East Police Station, Crime No.214 of 2015	379 IPC @ 379, 411, 414 IPC

The ground case has been registered against the detenu in Crime No.257 of 2015 on the file of Tiruvannamalai East Police Station for offences u/s.394 r/w.397, 506(ii) IPC.

3. Amidst several grounds raised, learned counsel for petitioner submits that detaining authority has informed the likelihood of the relatives of the detenu moving an bail application only in the adverse case and the detaining authority has not considered the dismissal of the bail application in the ground case before the Court below and the pendency of further bail application filed before this Court. Hence, the subjective satisfaction has not been arrived at objectively and the order of detention suffers from non-application of mind.

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

5. We find that the order of detention does suffer from non application of mind and for the reasons put forth by learned counsel for petitioner. The order under challenge would have to fall. 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 Dinesh @ Krishnakumar, son of Ramesh, made in D.O. No.33/2015-C2 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.
Vga

Sd/-

Assistant Registrar

/True Copy/

Sub-Assistant Registrar

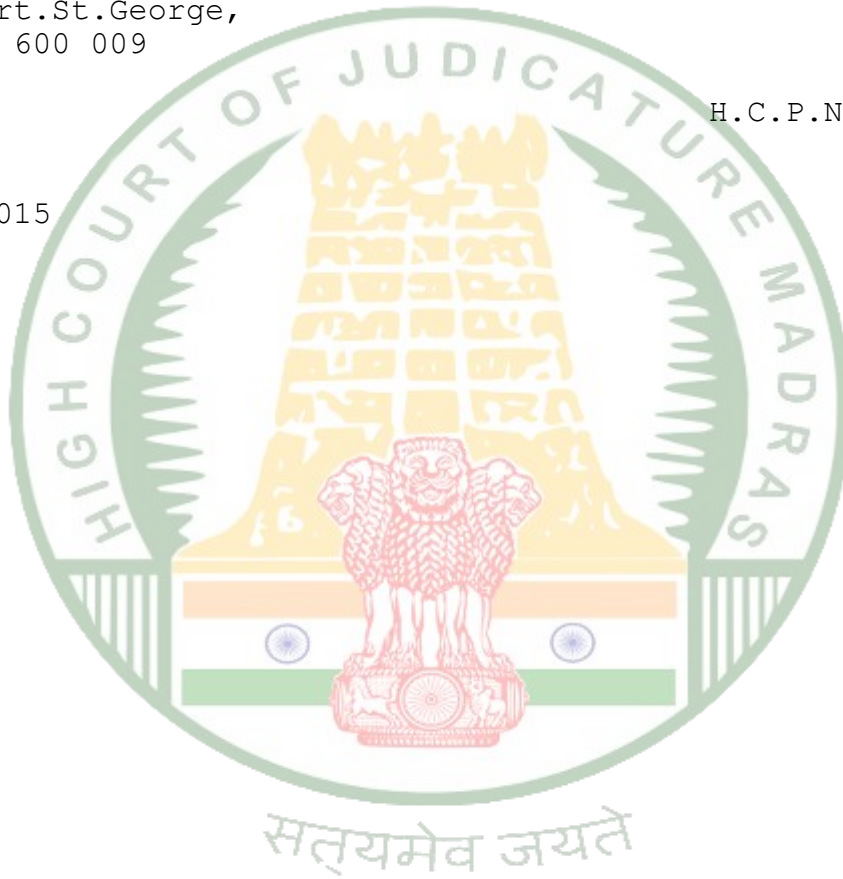
To

1. State of Tamil Nadu,
rep. by its Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.

2. The District Collector and District Magistrate,
Tiruvannamalai District,
Tiruvannamalai.
3. The Superintendent of Central Prison,
Vellore.
4. The Public Prosecutor
High Court, Chennai.
5. The Joint Secretary to Government,
Public Fort.St.George,
Chennai - 600 009

H.C.P.No.1902 of 2015

TM(CO)
sd : 22/12/2015



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