

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 11.06.2015

Coram:

THE HON'BLE MR.JUSTICE S.TAMILVANAN

and

THE HON'BLE MR.JUSTICE C.T.SELVAM

H.C.P.No.2931/2014

Malliga

... Petitioner

-vs-

1.The Secretary,
State of Tamil Nadu, Prohibition &
Excise Department, Secretariat,
St George Fort, Chennai 600 009.

2.The Commissioner of Police
Poonamallee High Road,
Vepery, Chennai 600 007.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Habeas Corpus, calling for the records relating to the detention order dated 17.09.2014 made in detention order Memo No.1300/BDFGISSV/2014 passed by the 2nd respondent herein, quash the same and direct the respondents to produce the body and person of the petitioner's son Muthupandi, son of Chinnadurai, aged about 22 years, branded as Goonda and now confined in Central Prison, Puzhal, Chennai before this Court and set him at liberty forthwith.

For petitioner : Mr.C.Mohanraj

For Respondents : Mr.M.Maharaja
Addl. Public Prosecutor

O R D E R

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

The petitioner is the mother of the detenu, viz., Muthupandi, son of Chinnadurai, aged about 22 years. The detenu has been branded as a "Goonda" under the Tamil Nadu Act 14 of 1982 and detained under the

order of the 2nd respondent passed in Memo No.1300/BDFGISSV/2014 dated 17.09.2014.

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 dated 21.08.2014 passed by the learned Judicial Magistrate No.II, Poonamallee, 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.

4. A careful scrutiny of the Remand Order dated 21.08.2014, furnished in the booklet, both the English version and the Tamil Version, would reveal some defects in translation. On verification of the English and Tamil version of the Remand Order annexed in page No.21 of the Booklet furnished to the detenu, it is seen that there is contradiction in translation. In the English version, in page No.21 of the Booklet, it is stated thus:-

"Marginally noted accused produced on 21.08.2014 by 6.00 p.m. Grounds of Arrest informed. Legal Aid explained. Right to consult an advocate also explained. Accused are not juveniles. Arrest informed. Accused has stated that they have not committed any offence. The 1st accused has stated that he was taken from his home today by 7.30 a.m. on the pretext that he has not signed for one day. The 2nd accused has stated that he was picked up from his home on 7.30 a.m. today. Police denied the same....."

But, in the vernacular version, viz., Tamil version, of the said Remand Order, annexed in Page 217 of the Booklet, the above line, viz., Accused has stated that they have not committed any offence, has not been translated at all. 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.

6. 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

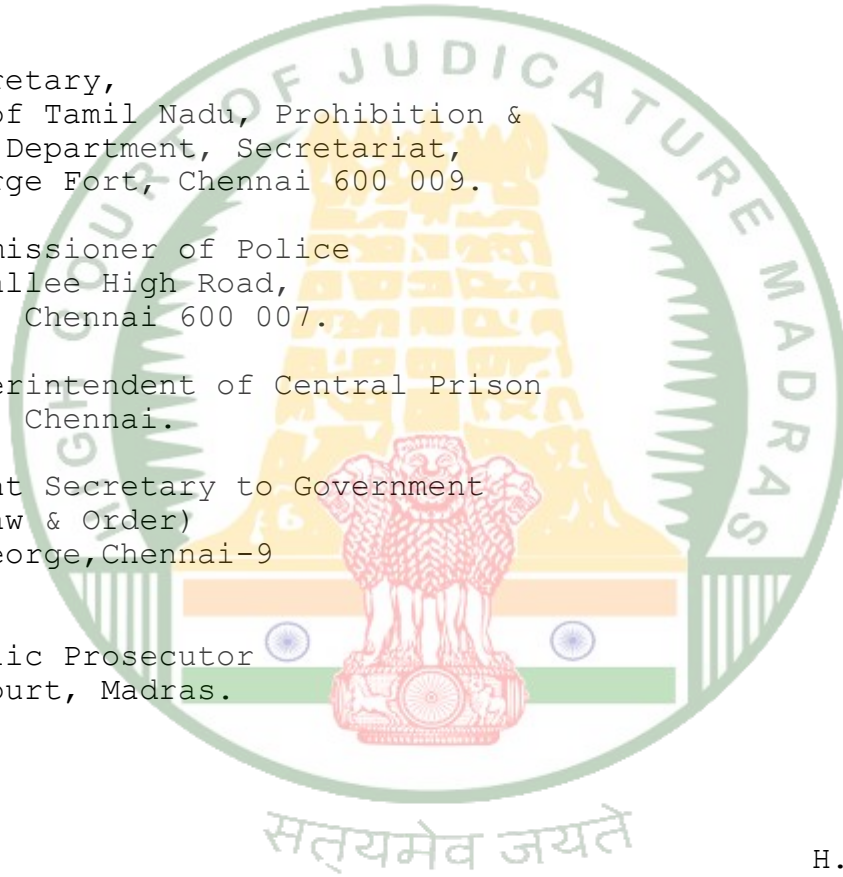
True Copy

Sub Assistant Registrar

AP

To :

- 1.The Secretary,
State of Tamil Nadu, Prohibition &
Excise Department, Secretariat,
St George Fort, Chennai 600 009.
- 2.The Commissioner of Police
Poonamallee High Road,
Vepery, Chennai 600 007.
- 3.The Superintendent of Central Prison
Puzhal, Chennai.
- 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.2931/2014

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