

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.02.2015

CORAM:

THE HONOURABLE MR.JUSTICE S.MANIKUMAR
and
THE HONOURABLE MRS.JUSTICE ARUNA JAGADEESAN

H.C.P.(MD) No.2965 of 2014

Lincy

.. Petitioner

versus

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

2. The Commissioner of Police,
Chennai.

.. Respondents

Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of Habeas Corpus, to set aside the order of the detention passed by the second respondent, dated 21.08.2014, in Memo No.1023/BDFGISSV/2014, against the petitioner's husband, Justin John, Male, Aged 35 years, S/o.John, who is confined at Central Prison, Puzhal II, Chennai and set aside the same and direct the respondents to produce the detenu, before this Court and set him at liberty.

For petitioner : Mr.V.Kanadasan

For 1st respondent: Mr.C.Emalias,
Additional Public Prosecutor

O R D E R

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

The Commissioner of Police, Chennai, 2nd respondent herein, has passed the detention order, vide Memo No.1023/BDFGISSV/2014, dated 21.08.2014, clamping the petitioner's husband, Mr.Justin John, as 'Goonda'. The impugned order reads as follows;-

"WHEREAS, I, S.George, I.P.S., Commissioner of Police, Chennai, Police, am satisfied that with respect to the person, known as Thiru.Justin John, Male, aged 35 years, S/o.John, No.39, 4th Cross Street, Pasumpon Nagar, Kallikuppam, Ambattur, Chennai-53, is a "GOONDA" as

contemplated under Section 2(f) of the Tamil Nadu Act No.14 of 1982 and that with a view to preventing her from acting in any manner prejudicial to the maintenance of public order, it is necessary to make the following order.

Now, therefore, in exercise of the powers conferred on me by sub-section(1) of the Section 3 of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act No.14/1982) read with the orders issued by the Government in G.O.(D).No.143, Home, Prohibition & Excise (XVI) Department, dated 18.07.2014, under sub-section (2) of Section 3 of the said Act, I hereby direct that the said Thiru.Justin John, S/o.John, be detailed and kept in custody at the Central Prison, Puzhal, Chennai."

2. Besides assailing the impugned order on various grounds, inviting the attention of this Court to Section 2(f) of the Tamil Nadu Act 14 of 1982, which defines 'Goondas' and Full Bench judgment of this Court reported in 2011 (4) CTC 353 (ARUMUGAM V. STATE OF TAMIL NADU (FB)), followed by Honourable Division Bench judgment of this Court reported in 2012-2-L.W. (Crl.) 532 (K.BALA V. THE STATE OF TAMIL NADU & ANOTHER), learned counsel for the petitioner submitted that for the solitary act, Thiru.Justin John, the detenu, cannot be branded as 'Goonda' under the provisions of the Act and on the sole ground, prayed to set aside the impugned order and consequently, set the detenu, Thiru.Justin John, confined in Central Prison, Puzhal, Chennai, at liberty forthwith.

3. We have gone through the statutory provisions and the decisions stated supra, which squarely applicable to the facts of this case. State has not placed any material to prove that the detenu had come to adverse notice in more than one case. Following the decisions stated supra, the impugned order is liable to be set aside. Accordingly, the impugned order, dated 21.08.2014, passed by the second respondent is quashed and the Habeas Corpus Petition is allowed. The Detenu is ordered to be set at liberty unless his presence is required in connection with any other case.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

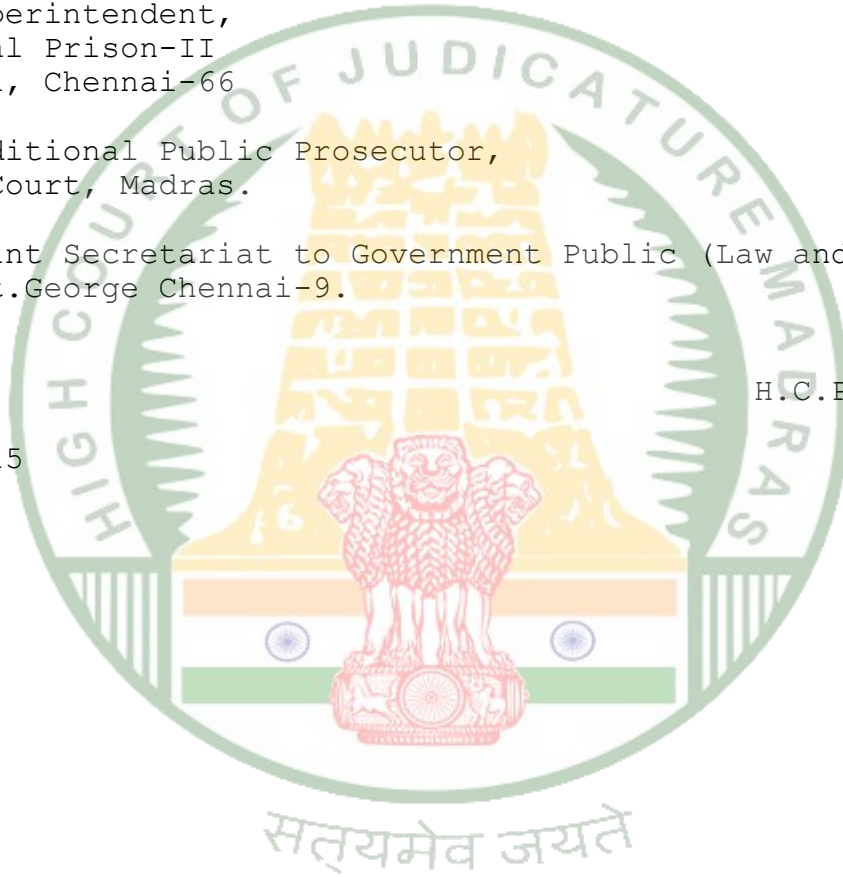
skm

To

1. The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai 600 009.
2. The Commissioner of Police,
Office of the Commissioner of Police,
Vepery, Chennai 600 007.
3. The Superintendent,
Central Prison-II
Puzhal, Chennai-66
4. The Additional Public Prosecutor,
High Court, Madras.
5. The Joint Secretariat to Government Public (Law and order)
Fort St.George Chennai-9.

CTK(CO)
EU 06.03.15

H.C.P.No.2965 of 2014



WEB COPY