

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 09.06.2015

Coram:

THE HON'BLE DR.JUSTICE S.TAMILVANAN
and
THE HON'BLE MR.JUSTICE C.T.SELVAM

H.C.P.No.3526/2014

J.Madhavan

... Petitioner

-vs-

1. The Secretary to the Government
Home, Prohibition and Excise Department,
Secretariat, Chennai-9.

2. The Commissioner of Police,
Chennai City.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Habeas Corpus to call for the records in connection with the order of detention passed by the second respondent on 21.11.2014 in Memo No.1931/BDFGISSV/2014 against the petitioner's son Sasi @ Sasi Kumar, S/o.Madhavan, aged about 23 years, who is confined at Central Prison, Puzhal II, Chennai and to set aside the same and to direct the respondents to produce the detenu before this Court and to set him at liberty.

For petitioner : Mr.S.Senthilvel

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

सत्यमेव जयते
O R D E R

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

Challenge is made to the order of detention passed by the second respondent vide Proceedings Memo No.1931/BDFGISSV/2014 dated 21.11.2014 whereby the detenu/the son of the petitioner herein, by name, Sasi @ Sasi Kumar, S/o.Madhavan, aged about 23 years, was ordered to be detained under the provisions of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Slum-grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982) branding him as a "GOONDA".

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 of non-furnishing of the certain documents in vernacular version. The application in respect of sending articles concerned in Crime No.966/2014 on the file of the New Washermenpet Police Station to the Forensic Department by the Inspector of Police, the letter dated 06.11.2014 by the Forensic Science Department to the learned XV Metropolitan Magistrate, Chennai and the Forensic Science report dated 25.09.2014 were all furnished in English version and the same were not furnished in the vernacular version. This 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 Advocate General on the above submission made by the learned counsel for the petitioner.

4. A careful scrutiny of the Booklet furnished to us, would reveal that some of the documents were furnished to the detenu only in English version and not in vernacular version. For instance, the requisition forwarded by the Inspector of Police to the Forensic Science Department for testing the articles; the letter addressed by the Forensic Science Department to the learned XV Metropolitan Magistrate, Chennai dated 06.11.2014 and the Forensic Science Report dated 25.09.2014, in page Nos.71 to 80, were all given in the English version and the Tamil version of the same has not been furnished. Thus, the non-furnishing of the documents in the language known to the detenu deprives him an 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. This order is made only towards setting aside the order of detention passed against the detenu herein. Any bail application moved by the detenu in the ground case or in the adverse cases, necessarily would have to be considered by the Court concerned solely on merits.

5. 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.

vga

-s/d-

Assistant Registrar (CS-II)

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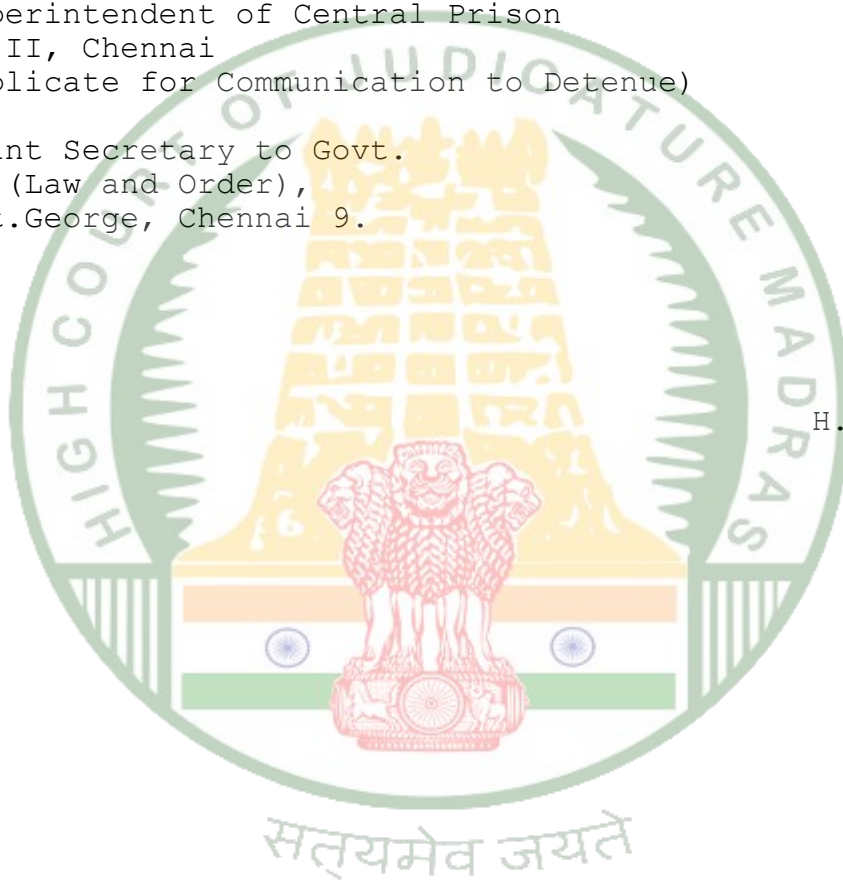
Sub-Assistant Registrar

To

1. The Secretary to the Government
Home, Prohibition and Excise Department,
Secretariat, Chennai-9.
2. The Commissioner of Police,
Chennai City.
3. The Public Prosecutor
High Court, Madras.
4. The Superintendent of Central Prison
Puzhal II, Chennai
(To duplicate for Communication to Detenue)
5. The Joint Secretary to Govt.
Public (Law and Order),
Fort St.George, Chennai 9.

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