

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.03.2016

CORAM:

THE HONOURABLE MR . JUSTICE M.JAICHANDREN

AND

THE HONOURABLE MR. JUSTICE S.NAGAMUTHU

H.C.P.No.2255 of 2015

T.Karthick

... Petitioner

-Vs-

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

2.The Commissioner of Police
Veppery, Chennai 600 007.

... Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Habeas Corpus, to call for the records of the 2nd respondent vide his Order Memo No. /BCDFGISSSV No.833/2015 dated 29.08.2015 and to produce the body of the detenu viz., Rajganesh, aged about 25 years, S/o Thanikachalam, who is presently detained in the Central Prison, Chennai, before this Court and set him at liberty.

For Petitioner : Mr.V.Parthiban
for Mr.V.Devendhiran

For Respondents : Mr.A.N.Thambidurai
Addl. Public Prosecutor

O R D E R

[Order of the Court was made by M.JAICHANDREN, J.]

This Habeas Corpus Petition has been filed by the brother of the detenu, to issue a Writ of Habeas Corpus, calling for the records relating to the impugned order passed by the 2nd respondent in BCDFGISSSV No.833/2015 dated 29.08.2015, detaining the detenu, namely Rajganesh, aged about 25 years, S/o Thanikachalam, under Section 3(1) of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders,

Sexual Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14/1982), branding him as a "Goonda" as contemplated u/s 2(f) of the Tamil Nadu Act 14 of 1982, and to quash the same, produce him before this Court and to set him at liberty.

2. We have heard the learned counsel appearing on behalf of the petitioner and the learned Additional Public Prosecutor appearing for the State and we have also perused the records carefully.

3. Even though various grounds have been raised in this Habeas Corpus Petition, praying that this Court may be pleased to quash the impugned detention order, the learned counsel appearing on behalf of the petitioner, has pointed out, that in the grounds of detention, the detaining authority had relied on the confession statement, said to have been made by the detenu, while passing the impugned detention order. However, the confession statement made by the detenu, had not been furnished to him, at the time of passing the impugned detention order. Thus, according to the learned counsel, the detenu has been denied the opportunity of making an effective representation, against the impugned detention order, dated 29.08.2015. In support of the above submission, the learned counsel relied upon the judgments of this Court in Chandran v. The Commissioner of Police, Madras City & another [1996(1) Crimes 306]; and Mariammal v. State of Tamil Nadu [Law (Mad)-2003-12-47]

4. As rightly pointed out by the learned counsel, a perusal of the booklet would go to show, that the confession statement made by the detenu had not been furnished to him, at the time of passing the impugned detention order, thereby depriving him of making an effective representation. Therefore, we are inclined to set aside the detention order.

5. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order, dated 29.08.2015, passed by the second respondent is set aside. The detenu is directed to be released forthwith unless his presence is required in connection with any other case.

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Sd/-

Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

gms

To

1.The Secretary to Govrnment
State of Tamil Nadu
Home, Prohibition and Excise Department
Secretariat, Chennai 600 009.

2.The Commissioner of Police
Veppery, Chennai 600 007.

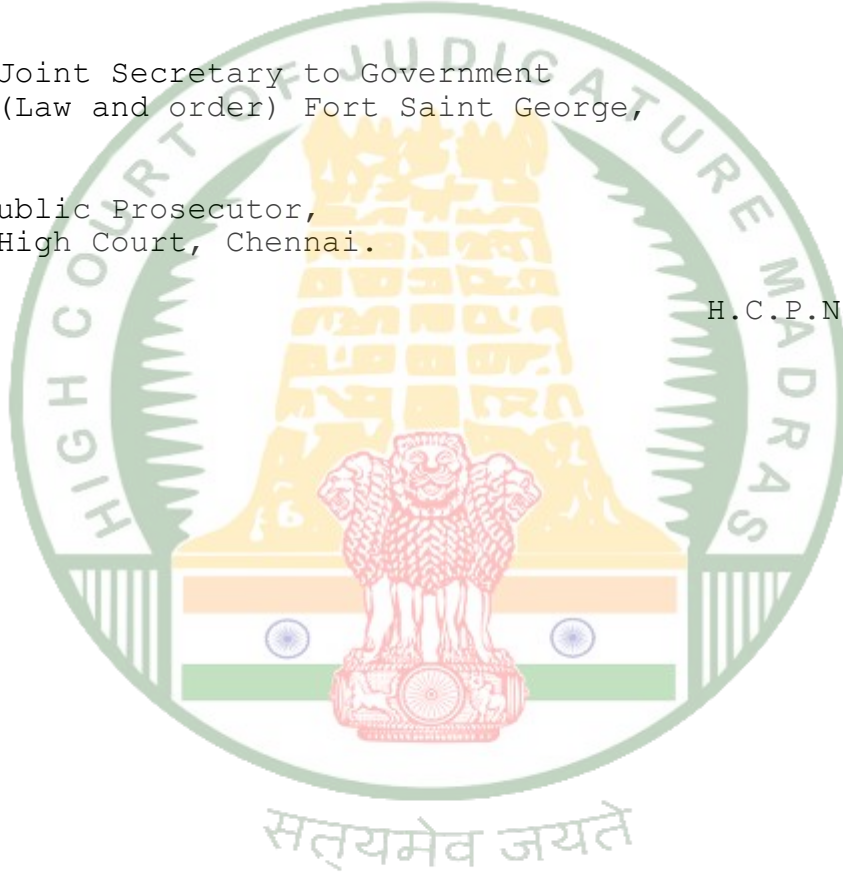
3. The Superintendent
Central Prison, Puzhal,
Chennai

4. The Joint Secretary to Government
Public (Law and order) Fort Saint George,
Chennai

5.The Public Prosecutor,
Madras High Court, Chennai.

H.C.P.No.2255 of 2015

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