

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.03.2016

Coram:

THE HONOURABLE MR.JUSTICE M.JAICHANDREN
and
THE HONOURABLE JUSTICE S.NAGAMUTHU

H.C.P.No.2340 of 2015

P.Kandasamy

.. Petitioner

vs.

1. The District Collector and District Magistrate,
Namakkal District, Namakkal.

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

.. Respondents

Petition filed under Article 226 of the Constitution of India for the issuance of a writ of Habeas Corpus to call for the records of the 1st respondent in CMP.No.39/2015/M1 dated 15.06.2015 and set aside the same and direct the respondent to produce the detenu Siva @ Dhilipkumar, S/o.Jayasankar, aged about 20 years, now confined in Borstal School and District Jail, Pudukottai before this Court and set him at liberty.

For petitioner : Mr.A.Mohamed Ismail

For Respondents : Mr.A.N.Thambi Durai,
1 and 2 Addl. Public Prosecutor (Crl.side)

सत्यमेव जयते
O R D E R

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

The petitioner is the parental uncle of one Siva @ Dhilipkumar, son of Jayasankar. He has been detained by the 1st respondent, namely, The District Collector and District Magistrate, Namakkal District, Namakkal, under the Tamil Nadu Act 14 of 1982 as a 'Goonda' vide Detention Order in CMP.No.39/Goonda/2015/M1, dated 15.06.2015. Challenging the said detention order, the petitioner has come up before this Court with this Habeas Corpus Petition.

2. We have heard the learned Counsel for the petitioner, the learned Additional Public Prosecutor (Crl. Side) appearing for the respondents and we have also perused the records carefully.

3. Though several grounds have been raised in this Habeas Corpus Petition, the learned Counsel for the petitioner would mainly focus his argument on the ground that though in paragraph 3 of the detention order, the Detaining Authority has stated that there was likelihood of the detenu coming out of bail in connection with Elachipalayam Police Station Crime No.61 of 2015, in the same order, the Detaining Authority has stated that though the detenu had not moved any bail application in connection with the said crime number, his relatives have taken steps to file bail application before the appropriate court. When that be so, it is not known as to how the Detaining Authority had come to the conclusion that there was likelihood of the detenu coming out of bail. In such view of the matter, we are of the view that the detention order of the 1st respondent is liable to be quashed for total non-application of mind.

4. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order in CMP.No.39/Goonda/2015/M1 dated 15.06.2015, passed by the first respondent is quashed. The detenu, namely, Siva @ Dhilipkumar, son of Jayasankar, is directed to be released forthwith, unless his presence is required in connection with any other case.

Sd/-
Assistant Registrar(AS)

//True Copy//

Sub Assistant Registrar

To

1. The District Collector and District Magistrate,
Namakkal District, Namakkal.
2. The Secretary to Government,
State of Tamil Nadu,
Home, Prohibition and Excise Department,
Secretariat, Chennai-600 009.

3.The Public Prosecutor,
High Court,
Chennai.

4.The Superintendent, Borstal School
and District Jail, Pudukkottai.

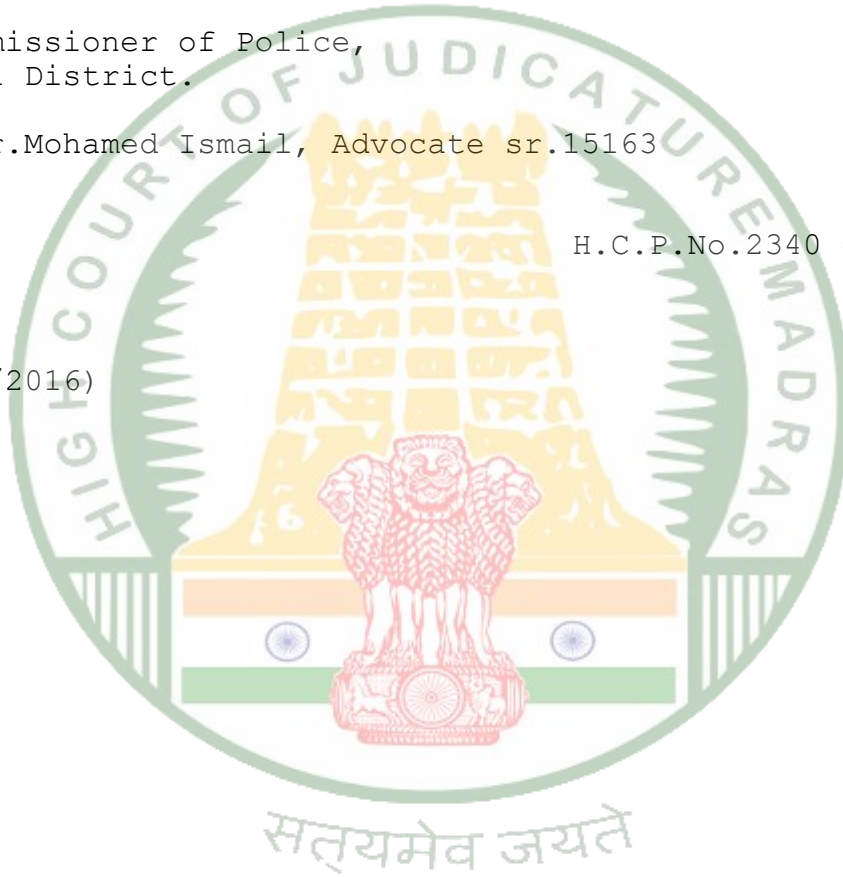
5.The Joint Secretary to Government,
Public(Law & Order),
Fort Saint George, Chennai - 9.

6.The Commissioner of Police,
Namakkal District.

+1cc to Mr.Mohamed Ismail, Advocate sr.15163

H.C.P.No.2340 of 2015

msm(CO)
srg(23/03/2016)



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