

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.03.2016

CORAM:

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

H.C.P.No.2343/2015

Ramesh

..

Petitioner

vs.

1.The Secretary to Government
State of Tamil Nadu
Home, Prohibition & Excise Department
Fort St George, Chennai 600009.

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

..

Respondents

Prayer : 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 detenu's detention order passed by the 2nd respondent in his order No.BCDFGISSSV/626/2015 dated 28.07.2015 approved by the 1st respondent and set aside the same and produce the detenu Ramesh aged 37 years, son of Mannankatti, now detained in Central Prison, Chennai before this Court and set him at liberty.

For Petitioner ... Mr.B.Veeraragavan

For Respondents.. Mr.A.N.Thambidurai,APP

ORDER

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

The petitioner/the detenu himself challenges the Detention Order passed by the 2nd respondent, detaining him as a Goonda, under the Tamilnadu Prevention of Dangerous Activities of Bootleggers, Cyber Law Offenders, Drug Ofenders, Forest Offenders, Immoral Traffic Offenders, Sand Offenders, Sexual Offenders, Slum Grabbers and Video Pirates Act, 1982 [Act 14 of 1982], vide order made in No.BCDFGISSSV/626/2015 dated 28.07.2015.

2 Heard the learned counsel, appearing on behalf of the petitioner and the learned Additional Public Prosecutor appearing for the respondents.

3 Though several grounds have been raised by the petitioner in the petition, learned counsel for the petitioner would submit that the Detaining Authority had passed the Detention Order out of pre-determination without having application of mind. In order to substantiate this contention, the learned counsel submitted that though in paragraph 3 of the Grounds of Detention, it is stated by the Detaining Authority that the remand period of the detenu was extended till 04.08.2015, in Cr.No.1970/2015, there was no material available before the Detaining Authority to come to the said conclusion.

4 We have gone through the records carefully.

5 The records supplied to the detenu in the form of Booklet would go to show that the remand period of the detenu expired on 21.07.2015. There is no record to show that his remand was further extended by the jurisdictional Magistrate beyond 21.07.2015 till 04.08.2015. It is not known as to how the Detaining Authority had come to the conclusion that the remand of the detenu was extended by the jurisdictional Magistrate till 04.08.2015. This shows that even without any material, the Detaining Authority had acted with pre-determination and gone by the facts of the sponsoring authority. This shows total non-application of mind on the part of the Detaining Authority, which vitiates the detention order.

6 In such view of the matter, this Court finds it appropriate to quash the detention order. Accordingly, the Habeas Corpus Petition is allowed and the detention order passed by the 2nd respondent in Memo No.BCDFGISSSV/626/2015 dated 28.07.2015 is hereby set aside. The detenu is directed to be set at liberty forthwith unless his presence is required in connection with any other case.

Sd/-
Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar

AP

To

1.The Secretary to Government
State of Tamil Nadu
Home, Prohibition & Excise Department
Fort St George, Chennai 600009.

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

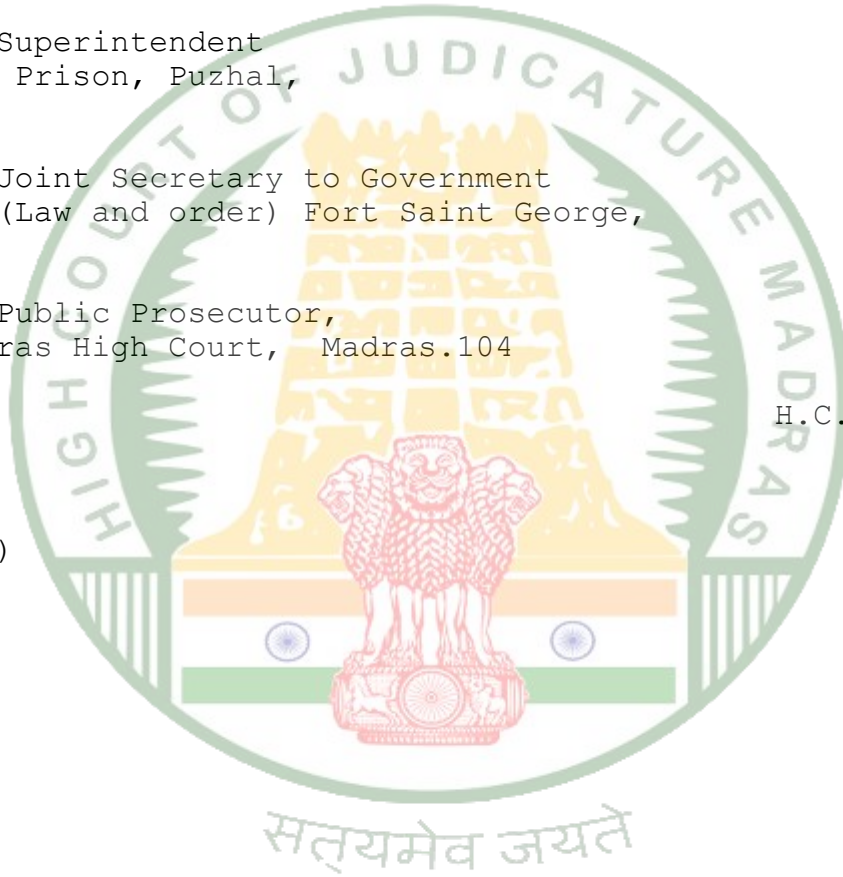
3. The Superintendent
Central Prison, Puzhal,
Chennai

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

5. The Public Prosecutor,
Madras High Court, Madras.104

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