

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.03.2016

CORAM:

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

H.C.P.No.2721 of 2015

Yuvaraj

... Petitioner

Vs.

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

2. The District Collector & District Magistrate
Vellore District, Vellore.

3. The Superintendent,
Central Prison, Vellore.

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Habeas Corpus calling for the entire records from the 2nd respondent in connection with order in No.C3.D.O.No.46/2015 dated 04.05.2015 and quash the same, and produce the petitioner namely Yuvaraj, son of Kuppusamy, aged 27 years now confined in Central Prison, Vellore under the Tamil Nadu Act 14 of 1982 before this Court and set him at liberty.

For Petitioner : Mr.P.Pugalenth

For Respondents : Mr.A.N.Thambidurai,
Additional Public Prosecutor

ORDER

(Order of the Court was made by M.JAICHANDREN, 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.C3.D.O.No.46/2015 dated 04.05.2015

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 13.05.2015, in Cr.No.208/2015, 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 29.04.2015. There is no record to show that his remand was further extended by the jurisdictional Magistrate beyond 29.04.2015 till 13.05.2015. 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 13.05.2015. 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.C3.D.O.No.46/2015 dated 04.05.2015 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/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

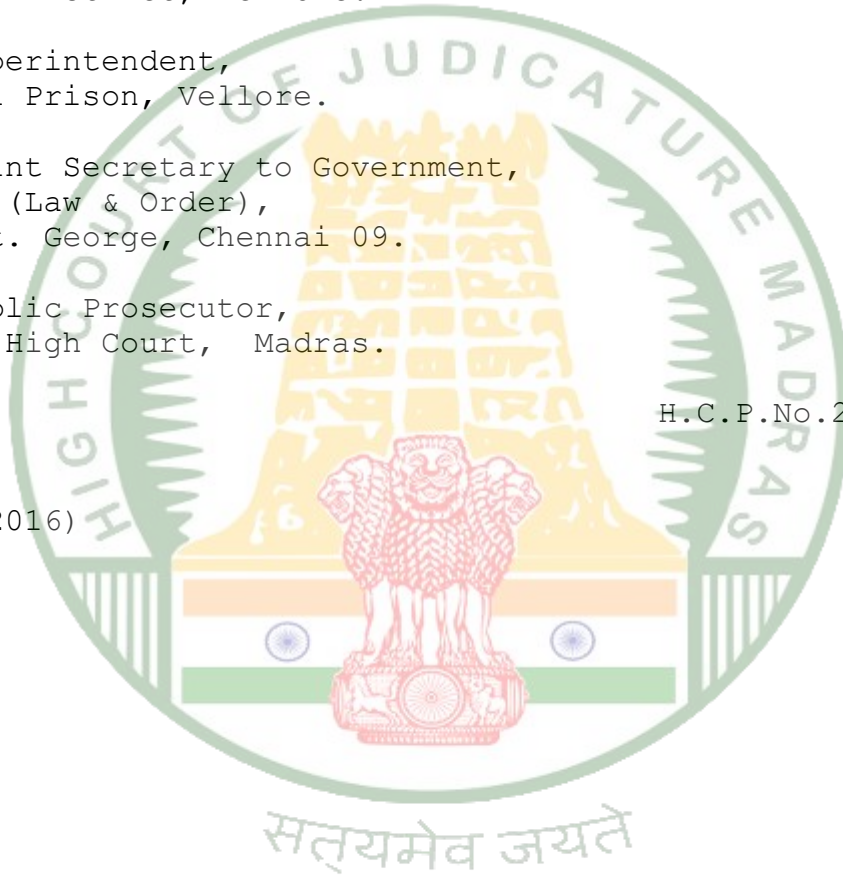
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To

1. The Secretary to Government
State of Tamil Nadu
Home, Prohibition & Excise Department
Secretariat, Chennai 600009.
2. The District Collector & District Magistrate
Vellore District, Vellore.
3. The Superintendent,
Central Prison, Vellore.
4. The Joint Secretary to Government,
Public (Law & Order),
Fort St. George, Chennai 09.
5. The Public Prosecutor,
Madras High Court, Madras.

H.C.P.No.2721 of 2015

RSY(CO)
CA(31/03/2016)



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