

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.04.2016

CORAM

THE HON'BLE MR.JUSTICE M.JAICHANDREN
and
THE HON'BLE MR.JUSTICE S.NAGAMUTHU

H.C.P.No.2983 of 2015

Poonkothai

... Petitioner

Vs

1. The Government of Tamil Nadu,
rep.by its Secretary to Govt.,
Home, Prohibition and Excise Department,
Fort St.George, Chennai-600 009
2. The Commissioner of Police,
Chennai.
3. The Inspector of Police,
(Law and Order)
P-3, Vyasarpadi Police Station
Chennai

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS to call for the records relating to the proceedings of the 2nd respondent in NO.776 of 2015 dated 24.08.2015, against the petitioner's son Ajith @ Karuppa Ajith, aged 23 years, and quash the same and consequently direct the respondents herein to produce the detainee who has now been detained under Act 14 of 1982, in Central Prison, Puzhal, Chennai, before this Court and set him at liberty.

For Petitioner : Mr.M.Prabakar

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

ORDER

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

This Habeas Corpus Petition has been filed, by the mother of the detenu, namely, Ajith @ Karuppu Ajith, aged about 23 years, praying that this Court may be pleased to issue a Writ of Habeas Corpus, to call for the records, in No.776/2015, dated 24.08.2015, passed by the 2nd Respondent, detaining the detenu under Section 3(1) of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Cyber Law Offenders, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14/1982), branding him as a "Sand Offender", in the Central Prison, Puzhal, Chennai, and to quash the same and to direct the Respondents to produce the body of the detenu and set him at liberty, forthwith.

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

3. Though several grounds have been raised in this Habeas Corpus Petition, Mr.M.Prabakar, the learned counsel appearing on behalf of the petitioner, has assailed the impugned detention order only on the ground that the vernacular version viz., the Tamil version, [the only language which the detenu understands], of the bail order in similar case, in T-1 Ambattur Police Station Crime No.1960 of 2012, for offence under Sections 341, 294(b), 336, 427, 392, 397 and 506(ii) of the Indian Penal Code, has not been furnished to the detenu though the English version of the same is furnished. This non-furnishing of the vernacular version of the bail order in similar case, referred to by the detaining authority, in the detention order has deprived the detenu of making an effective representation. This has not been duly verified by the Detaining Authority, before passing the order of detention. Therefore, it is submitted that this is indicative of total non-application of mind on the part of the detaining authority and the same vitiates the detention order.

4. The said submissions made by the learned counsel appearing on behalf of the petitioner, had not been refuted by the learned Additional Public Prosecutor.

5. It is noted from the Booklet furnished to the detenu, that the English version of the bail order in similar

case, in in T-1 Ambattur Police Station Crime No.1960 of 2012, for offence under Sections 341, 294(b), 336, 427, 392, 397 and 506(ii) of the Indian Penal Code, has been furnished to the detenu, but the vernacular version of the same has not been furnished to the detenu. The non-furnishing of the vital document in the vernacular version, viz., in the Tamil version, which is the only language the detenu could understand, has deprived the detenu from making an effective representation. Whatever documents referred to and relied upon by the Detaining Authority has to be translated and given in Tamil version, as the detenu knows only Tamil. Therefore, the above discrepancy vitiates the detention order and therefore, the detention order is liable to be set aside.

6. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order, dated 24.08.2015, 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.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

msk

To

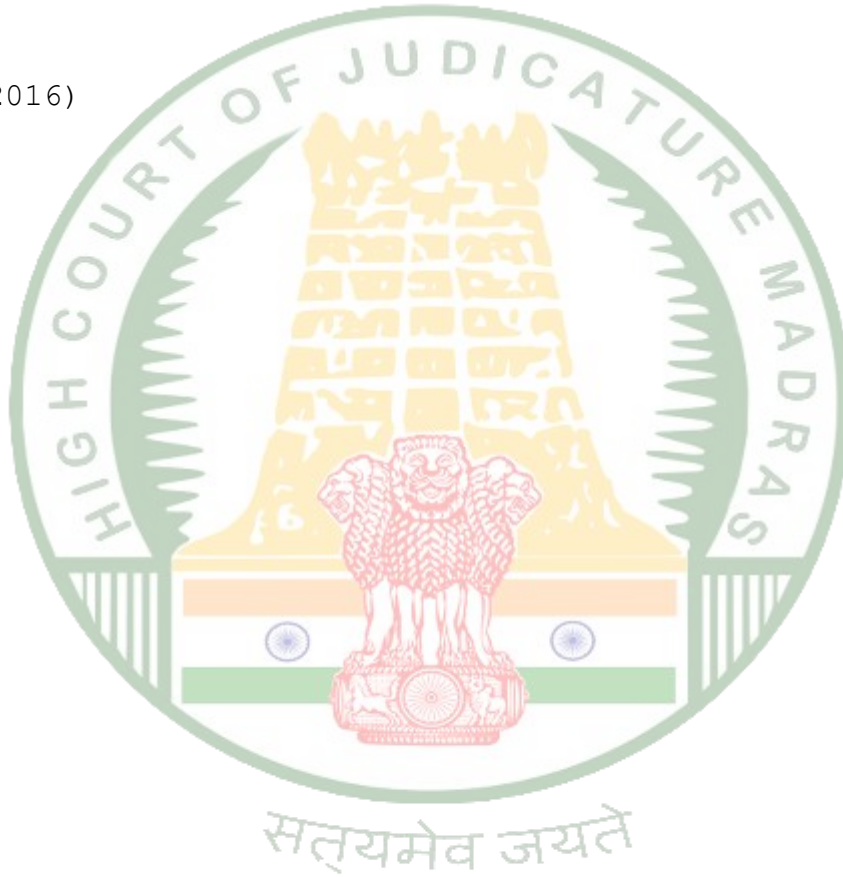
1. The Secretary to Government,
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Chennai-600 009.
2. The Commissioner of Police,
Chennai.
3. The Inspector of Police,
(Law and Order)
P-3, Vyasarpadi Police Station
Chennai
4. The Superintendent,
Central Prison,
Puzhal,
Chennai.

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

6. The Public Prosecutor,
High Court, Madras.

H.C.P.No.2983 of 2015

AD(CO)
CA(17/05/2016)



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