

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.3208/2015

Divya

..... Petitioner

Vs

1.The State of Tamil Nadu,  
rep.by its Secretary to Government (Home)  
Prohibition & Excise Department,  
Secretariat, Chennai-9

2.The Commissioner of Police,  
Salem City,  
Salem.

3.The Superintendent,  
Central Prison,  
Salem-7.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS calling for the records relating to the detention of petitioner's husband Arun, son of Venkatachalam, aged 25 years, presently detained in Central Prison, Salem, under Act 14 of 1982, as a 'Goonda' vide the detention order dated 4.11.2015, in C.M.P.No.82/Goonda/Salem City/2015, on the file of the 2nd respondent herein, directing to produce body or the person of the detenu, before this Court and thereafter set him at liberty from the Central Prison, Salem, by setting aside the above order.

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For Petitioner : Mr.B.Vasudevan

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 wife of the detenu, namely, Arun, aged about 25 years, son of Venkatachalam, praying that this Court may be pleased to issue a Writ of Habeas Corpus, to call for the records, in C.M.P.No.82/Goonda/Salem City/2015, dated 4.11.2015, passed by the 2nd Respondent, detaining the detenu, under Section 3(1) of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14/1982), the Tamil Nadu Act 14 of 1982, branding him as a "Goonda", in the Central Prison, Salem, and to quash the same and to direct the Respondents to produce the body of the detenu and to 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.B.Vasudevan, the learned counsel, appearing on behalf of the petitioner, has assailed the impugned detention order only on the ground of supply of illegible copy of the statement of one Ramar, recorded under Section 161 of the Code of Criminal Procedure, 1973, which has affected the constitutional right of making an effective and purposeful representation to the authorities concerned, thereby vitiating the detention order.

4. Per contra, Mr.A.N.Thambidurai, the learned Additional Public Prosecutor, appearing on behalf of the respondents, would submit that the impugned detention order has been passed on cogent and sufficient materials and there is no illegality or infirmity in the impugned order of detention. However, he had submitted that the copy of the statement of one Ramar, recorded under Section 161 of the Code of Criminal Procedure, 1973, furnished to the detenu, is illegible.

5. We have given our careful and anxious consideration to the rival submissions put forth by the learned counsel on either side and thoroughly scanned through the impugned detention order and the entire materials available on record.

6. On a perusal of the book-let furnished by the Prosecution, it is seen that the statement of one Ramar, recorded under Section 161 of the Code of Criminal Procedure, 1973, furnished to the detenu, is illegible and could not be read at all. The said material was a document relied upon by the Detaining Authority, to pass the detention order. Therefore, supply of such illegible copy of the statement of one of the witnesses, recorded under Section 161 of the Code of Criminal Procedure, 1973, to the detenu, would vitiate the impugned detention order.

7. As already analysed by us, in the facts and circumstances of the present case, the supply of illegible copy of the statement of one of the witnesses, recorded under Section 161 of the Code of Criminal Procedure, 1973, to the detenu, has the effect of vitiating the impugned detention order. Further, due to the defect in such a vital document, the detenu has lost his valuable right to make an effective representation to the authorities concerned. Therefore, the impugned order of detention is vitiated and the same is liable to be quashed.

8. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order, dated 4.11.2015, 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

msh

To

1. The Secretary to Government (Home)  
Prohibition & Excise Department,  
Secretariat, Chennai-9

2. The Commissioner of Police,  
Salem City,  
Salem.

3.The Superintendent,  
Central Prison,  
Salem.

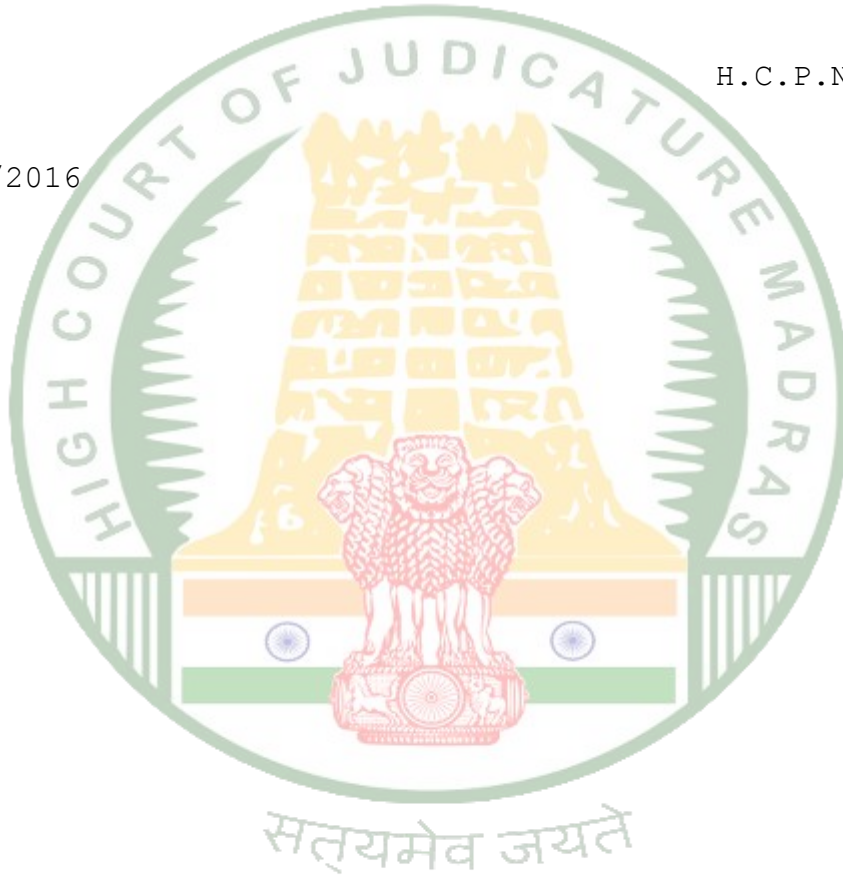
4.The Additional Public Prosecutor,  
High Court, Madras.

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

+lcc to Mr.B.Vasudevan, Advocate Sr.27143

H.C.P.No.3208/2015

lrs[col]  
srg 30/05/2016



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