

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.05.2016

CORAM

THE HONOURABLE MR.JUSTICE G. CHOCKALINGAM

and

THE HONOURABLE MR.JUSTICE M.V. MURALIDARAN

H.C.P.No.1 of 2016

Mari @ Mariammal
W/o. Prakash

.. Petitioner

Vs.

1. The State rep. By
The Secretary to Government
Prohibition and Excise Department
Fort St. George, Secretariat
Chennai 600 009.

2. The Commissioner of Police
(Detaining Authority),
Greater Chennai, Egmore,
Chennai - 600 008.

... Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Habeas Corpus to call for the records in connection with the order of detention passed by the 2nd respondent dated 18.09.2015 in Memo No. 952/BCDFGISSSV/2015 against the petitioner's husband Prakash, male aged about 32 years, son of Mani, who is confined at Central Prison, Puzhal, Chennai and set aside the same and direct the respondents to produce the body and person of the petitioner's husband i.e, the detenu before this Court Hon'ble Court and set him at liberty.

For Petitioner :: Mr.B. Ganeshamoorthy

For Respondents :: Mr.M.Maharaja,
Addl. Public Prosecutor

O R D E R

[Order of the Court was made by G. CHOCKALINGAM, J.]

Challenge is made to the order of detention passed by the second respondent vide Proceedings in Memo No. 952/BCDFGISSSV/2015 dated 18.09.2015 whereby the detenu,

namely, Prakash, S/o. Mani was ordered to be detained under the provisions of 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 of 1982) branding him as a "GOONDA".

2. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondents.

3. At the foremost, learned counsel appearing for the petitioner, by drawing our attention to the Arrest Card, which is available at page No. 56 of the paper book supplied to the detenu, has submitted that though the date of arrest is mentioned as 07.01.2015, the Inspector of Police (Crime), B-2 Esplanade Police Station, Chennai 600 104 has signed the arrest card as on 06.01.2015, which clearly shows that the arrest card was preferred prior to the arrest of the detenu. There is no explanation as to how the arrest card could have been signed by the Inspector of Police (Crime), B-2 Esplanade Police Station, on 06.01.2015, when the arrest was effected only on 07.01.2015. In the absence of proper explanation with regard to the same, we are of the view that this discrepancy in the arrest card vitiates the detention order on the ground of non application of mind. On this ground, the detention order is liable to be quashed and accordingly, the same is quashed.

4. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order 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(J)

//True Copy//

Sub Assistant Registrar

kua

To

1.The Secretary to Government,
Prohibition and Excise Department
Fort St. George, Secretariat
Chennai 600 009.

2.The Commissioner of Police
(Detaining Authority),
Greater Chennai, Egmore,
Chennai - 600 008.

3.The Superintendent of Prison
Central Prison, Puzhal, Chennai.

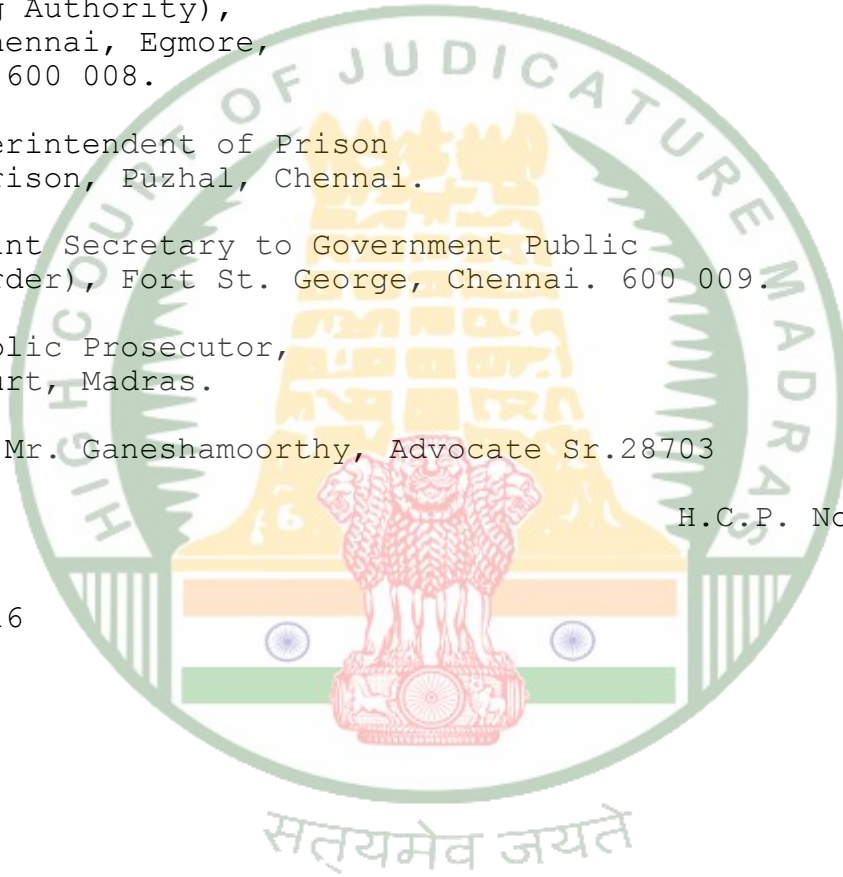
4. The Joint Secretary to Government Public
(Law & order), Fort St. George, Chennai. 600 009.

5.The Public Prosecutor,
High Court, Madras.

+ 1 cc to Mr. Ganeshamoorthy, Advocate Sr.28703

H.C.P. No. 1 of 2016

MG(CO)
Eu 02.06.16



WEB COPY