

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.11.2016

CORAM

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

H.C.P.No.1045 of 2016

Jamila W/o. Nazeer ... Petitioner/Mother of the defenue
Vs

1.Government of Tamil Nadu
represented by its Principal Secretary
Home, Prohibition and Excise (XVI) Department
Fort St. George, Chennai-9.
2.The Commissioner of Police
Greater Chennai. ... Respondents

Prayer: Petition is 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 second respondent dated 13.04.2016 in Proceedings No.420/BCDFGISSSV/2016, under the Tamil Nadu Act 14 of 1982 and to set aside the same and to direct the respondents to produce the detenu, namely, Ghouse Basha, aged about 23 years, the detenu, now confined in the Central Prison, Puzhal, Chennai, before this Court and to set him at liberty.

For Petitioner : M/s.M.Govindaraju
For Respondents : Mr.V.M.R.Rajentren,
Additional Public Prosecutor

ORDER

[Order of the Court was made by S. BASKARAN, J.]

This Habeas Corpus Petition has been filed, by the mother of the detenu, namely, Ghouse Basha, son of Nazeer, aged about 23 years, praying that this Court may be pleased to issue a Writ of Habeas Corpus, to call for the records, in Memo No.420/BCDFGISSSV/2016, dated 13.4.2016, passed by the second 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 of 1982), branding him as a "Goonda", 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, various grounds had been raised in the affidavit filed in support of the petition, the learned counsel, appearing on behalf of the petitioner, had assailed the order of detention mainly on the ground that the copy of the F.I.R. in Cr.No.824 of 2014 on the file of the E-2 Royapettah Police Station furnished to the detenu, which is available at page Nos.1 and 2 of the booklet, as well as the copy of Form No.91 furnished to the detenu, which is available at page No.92 of the booklet supplied to him, are illegible. Hence, the detenu had been prevented from making an effective representation against the impugned order of detention. Thus, the detention order is vitiated and the same is liable to be quashed.

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

5. A perusal of the booklet supplied to the detenu, would show that the copies of the documents relied upon and referred to by the detaining authority, which are available at page Nos.1, 2 and 92 of the booklet, are illegible. As such, we find that the furnishing of the illegible copy of the F.I.R. in Cr.No.824 of 2014 on the file of the E-2 Royapettah Police Station, as well as the copy of Form No.91, would prejudice the detenu, in making an effective representation against the impugned order of detention, dated 13.4.2016. Therefore, we are inclined to set aside the impugned detention order.

6. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order, dated 13.4.2016, 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/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

rnb

To

1. Government of Tamil Nadu
represented by its Principal Secretary
Home, Prohibition and Excise (XVI) Department
Fort St. George, Chennai-9.

2. The Commissioner of Police
Greater Chennai.

3. The superindendent, Central Prison,
Puzal chennai.

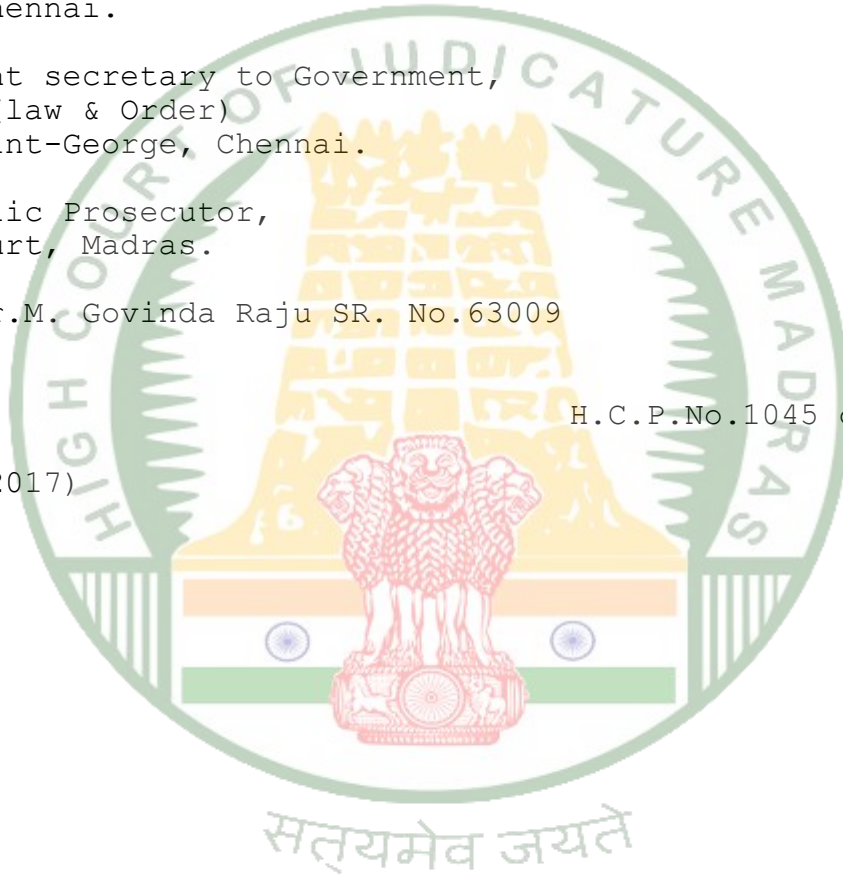
4. The joint secretary to Government,
public (law & Order)
Fort Saint-George, Chennai.

5. The Public Prosecutor,
High Court, Madras.

+lcc to Mr.M. Govinda Raju SR. No.63009

H.C.P.No.1045 of 2016

PVS (CO)
GN(19/01/2017)



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