

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.11.2016

CORAM

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

H.C.P.No.1123 of 2016

Prabhu .. Petitioner

Vs

1.The State of Tamil Nadu,
rep by the Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George, Chennai-600 009.

2.The Commissioner of Police,
Greater Chennai Police,
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 pertaining to the order of detention passed by the second respondent in No.217/BCDFGISSSV/2016, dated 29.2.2016 and to quash the same to direct the respondents to produce the detenu Chella @ Selvam, son of Perumal, aged about 32 years, who is detained at the Central Prison, Puzhal, Chennai, before this Court and to set him at liberty.

For Petitioner : Mr.P.Hariganesh

For Respondents: Mr.V.M.R.Rajentran, APP

ORDER

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

This Habeas Corpus Petition has been filed by the friend of the detenu, namely, Chella @ Selvam, aged about 32 years, son of Perumal, to issue a Writ of Habeas Corpus, to call for the records, in No.217/BCDFGISSSV/2016, dated 29.02.2016, passed by the second 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 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, as well as the learned Additional Public Prosecutor appearing for the State and we have also perused the records, carefully.

3. The learned counsel appearing for the petitioner contends that the arrest report furnished to the detenu, in page Nos.23, 50 and 150 of the booklet is one and the same. The said arrest report pertains to the ground case, in Crime No.129 of 2016, on the file of P-5 MKB Nagar Police station. It has been further submitted that the vernacular version of the same is not furnished to the detenu. It had been further submitted that the arrest report in respect of the ground case and the last adverse case was not furnished, properly, to the detenu. This has prevented the detenu from making an effective representation against the impugned order of detention, before the authority concerned. Thus, the detention order is vitiated and the same is liable to be quashed.

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 appearing on behalf of the respondents.

5. On verification of the records, it is found that the arrest report furnished to the detenu relates to Crime No.129 of 2016, on the file of P-5 MKB Nagar Police station. The vernacular version of the said arrest report was not furnished to the detenu. Further, proper arrest reports, relating to the ground case and the adverse cases, were not furnished to the detenu. This has, apparently, caused prejudice to the detenu and it has prevented him from making an effective representation and to take further steps. In such circumstances, we are inclined to set aside the detention order.

6. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order, dated 29.02.2016, 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 (CCC)

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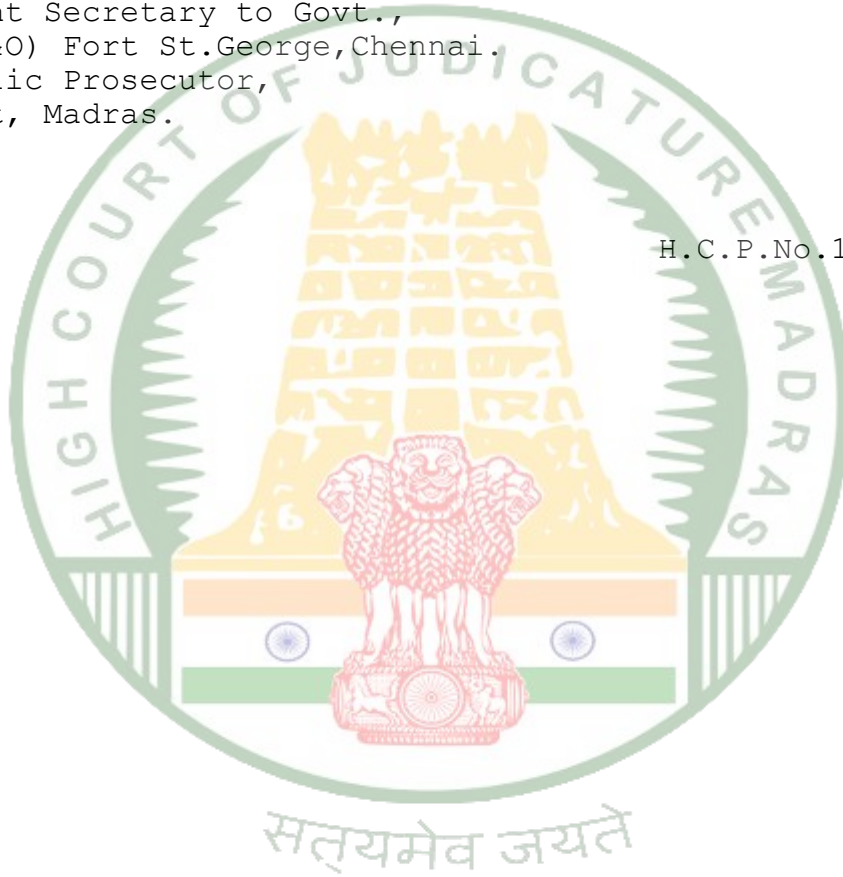
Sub Asst. Registrar

To

- 1.The Secretary to Government,
The State of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St. George, Chennai-600 009.
- 2.The Commissioner of Police,
Greater Chennai Police,
Chennai.
- 3.The Superintendent,
Central Prison, Puzhal, Chennai.
- 4.The Joint Secretary to Govt.,
Public (L&O) Fort St. George, Chennai.
- 5.The Public Prosecutor,
High Court, Madras.

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