

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.12.2016

CORAM

THE HON'BLE MR.JUSTICE M.JAICHANDREN
and
THE HON'BLE MR.JUSTICE T.MATHIVANAN

H.C.P.No.1378 of 2016

R.Vivek ..Petitioner/Brother of the detenu

Vs

- 1.The State of Tamil Nadu,
represented by Secretary to the Government,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai-600 009.
- 2.The Commissioner of Police,
Greater Chennai, Egmore,
Chennai-600 008. .. 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 in connection with the order of detention passed by the second respondent, dated 9.3.2016, vide order No.BCDFGISSSV No.267/2016, against the petitioner's brother Vinothkamal, son of late Rameshbabu, aged 24 years, now confined in the Central Prison, Puzhal, Chennai and to set aside the same and to direct the respondents to produce the body of the detenu, before this court and to set him at liberty.

For Petitioner : Mr.S.Pazhanivel

For Respondents : Mr.V.M.R.Rajentran,
Additional Public Prosecutor

ORDER

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

This Habeas Corpus Petition has been filed, by the brother of the detenu, namely, Vinothkamal, aged about 24 years, son of Rameshbabu, praying that this Court may be pleased to issue a Writ of Habeas Corpus, to call for the records, in BCDFGISSSV No.267/2016, dated 9.3.2016, 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 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 had been raised by the petitioner, while challenging the impugned order of detention, dated 9.3.2016, the learned counsel, appearing on behalf of the petitioner, had submitted that, a copy of the First Information Report, relating to the first adverse case, namely, Crime No.907 of 2014, on the file of J-11 Kannagi Nagar Police Station, had been furnished to the detenu, in the booklet supplied to him. A perusal of the same would show that the copy of the said F.I.R. is found 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 a copy of the F.I.R., relating to the Crime No.907 of 2014, on the file of J-11 Kannagi Nagar Police Station, which is the first adverse case, is illegible. As such, we find that the furnishing of the illegible copy of the copy of the F.I.R., would prejudice the detenu, in making an effective representation against the impugned order of detention, dated 9.3.2016. 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 9.3.2016, 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

/true copy/

vvk

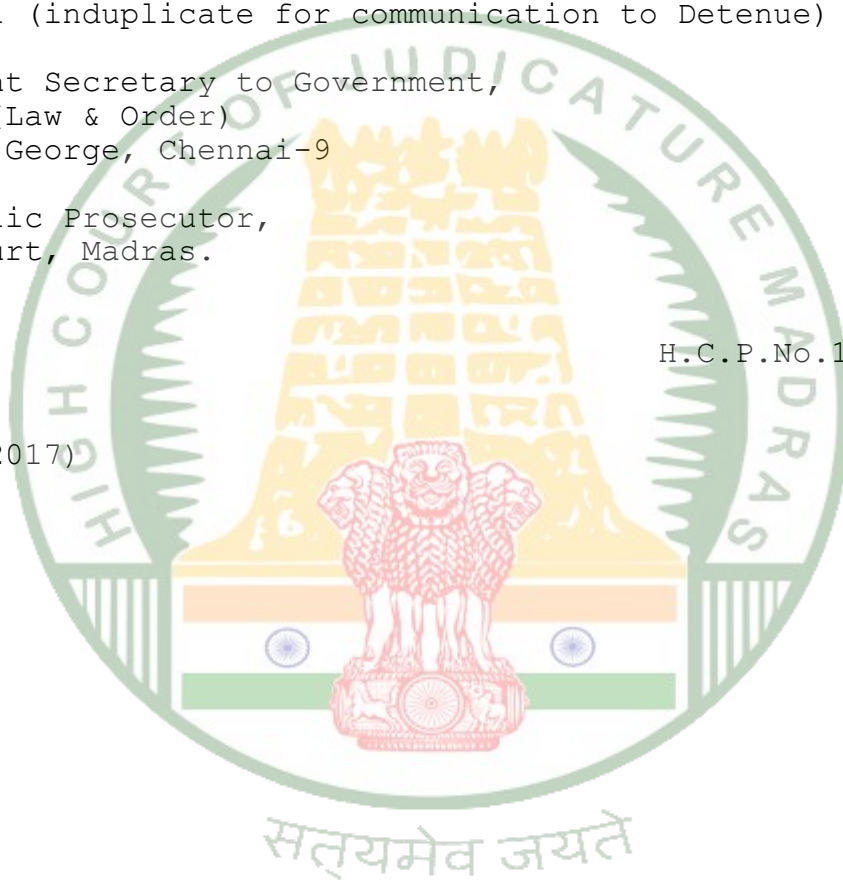
Sub Asst. Registrar

To

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George,
Chennai-600 009
- 2.The Commissioner of Police,
Greater Chennai, Egmore,
Chennai-600 008.
- 3.The Superintendent, Central Prison, Puzhal.
Chennai (induplicate for communication to Detenue)
- 4.The Joint Secretary to Government,
Public (Law & Order)
Fort St.George, Chennai-9
- 5.The Public Prosecutor,
High Court, Madras.

H.C.P.No.1378 of 2016

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