

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.05.2016

CORAM

THE HON'BLE MR.JUSTICE G.CHOCKALINGAM
and
THE HON'BLE MR.JUSTICE M.V.MURALIDARAN

H.C.P.No.242 of 2016

Dhavapriya

..Petitioner

Vs.

1.The Government of Tamil Nadu,
Rep. by its Secretary
Department of Prohibition and Excise Department
Secretariat, Chennai - 600 009.

2. The District Collector and District Magistrate
Kancheepuram District
Kancheepuram

...Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Habeas Corpus, to call for the records relating to the proceedings of the second respondent in B.C.D.F.G.I.S.S.S.V.No.06/2016 dated 29.01.2016 against the detenu Bothu@Kathavarayan, aged about 25 years and quash the same and consequently direct the respondents herein to produce the detenu who is detained under the Tamil Nadu Act 14 of 1982 currently confined the Central Prison, Puzhal, Chennai before this Court.

For Petitioner : Mr.P.Anbazhagan

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 B.C.D.F.G.I.S.S.S.V No.06 of 2016 dated 29.01.2016, whereby the detenu/brother of the petitioner, by name, Bothu @ Kathavarayan, son of Bothuraj, aged 25 years, was ordered to be detained under the provisions of

the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Cyber Law Offenders, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Sexual Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982) branding him as a "Bootlegger".

2. Though the learned counsel for the petitioner has raised several other grounds to assail the order of detention, he mainly focused his arguments on the ground that there is variation in translation in the Remand Order in respect of the ground case in Cr.No.992/2015, which has deprived the detenu in making effective representation to the authorities concerned and therefore, on this sole ground, the detention order is liable to be quashed.

3. We have heard the learned Additional Public Prosecutor on the above submission made by the learned counsel for the petitioner.

4. A careful scrutiny of the Booklet furnished to us, both the English version and the Tamil Version, would reveal some defects in translation with regard to the Remand Order dated 19.12.2015.

5. Thus, when there is discrepancy between English and Tamil versions, the opportunity of making effective representation upon knowledge of the factual situation stands denied to the detenu and the same, which amounts to infringement of right ensured under Article 22(5) of the Constitution of India, would vitiate the order of detention.

6. For the aforesaid reason, the impugned detention order passed by the second respondent is quashed and the Habeas Corpus Petition is allowed. The detenu is ordered to be set at liberty forthwith, unless his custody is required in connection with any other case.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary, State of Tamil Nadu
Department of Prohibition and Excise Department
Secretariat, Chennai - 600 009.

2. The District Collector and District Magistrate
Kancheepuram District
Kancheepuram

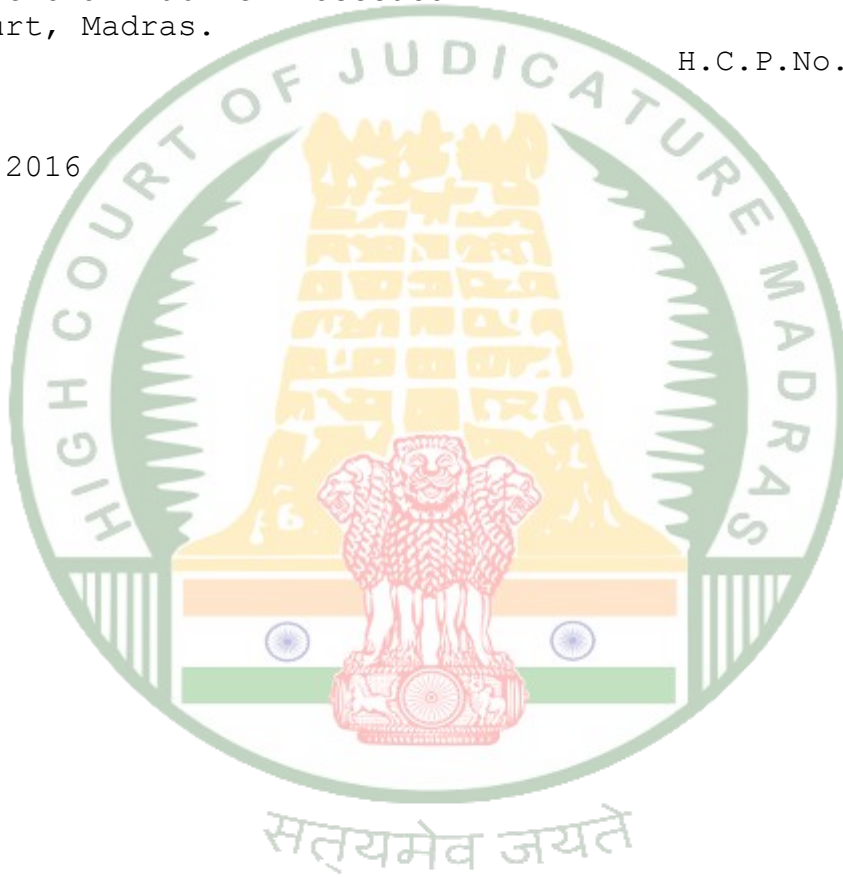
3.The Superintendent of Police,
Central Prison, Salem.

4.The Joint Secretary to Government,
Public (Law & Order),
Fort St. George, Chennai 9.

5.The Additional Public Prosecutor
High Court, Madras.

H.C.P.No.242 of 2016

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