

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.6.2016

CORAM

THE HONOURABLE MR.JUSTICE S.NAGAMUTHU
and
THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

H.C.P.No.310 of 2016

Tmt. Junobis Amutha

..... Petitioner

Vs

1.The State rep. by
The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.

2.The Commissioner of Police,
Greater Chennai Police,
Office of the Commissioner of Police,
Vepery, Chennai.

3. The Inspector of Police,
Anti Vice Squad,
Chindadripet,
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 in connection with the order of detention passed by the Second Respondent in order No. 52/BCDFGISSSV/2016 dated 05/02/2016 against the deteue Viz JOSE @ RAJA JOSE S/O. MARIYADASS aged 39 years, who is confirmed at the Central Prison Puzhal Chennai and set aside the same and direct the Respondents to produce the Detenue before this Hon`ble court and set at liberty.

For Petitioner : Mr.Thanga
Vadhanabalakrishnan

For Respondents : Mr.A.N.Thambidurai,
Additional Public Prosecutor

ORDER

(Order of the Court was made by S.NAGAMUTHU, J.)

The petitioner is the wife of Jose @ Raja Jose son of Mariyadass, who has been detained under Act 14 of 1982 as per the order of the second respondent by his proceedings in No.52/BCDFGISSSV/2016. Challenging the said detention order, the petitioner has come up with this Habeas Corpus Petition.

2. We have heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the State and we have also perused the records carefully.

3. Though, several grounds have been raised in this Habeas Corpus Petition, the learned counsel appearing for the petitioner, would mainly contend that though a representation was made on 17.2.2016 to the Government, the same has not been considered so far.

4. The learned Additional Public Prosecutor, on instructions, would submit that it is true that the said representation was received, but the same has not been considered so far.

5. In a case of preventive detention as mandated by the Constitution of India, if any representation is made, challenging the preventive detention, the same should be considered and orders should be passed by the Detaining Authority. Failure on the part of the authority to consider the representation without any delay and passing an order, is violative of the fundamental right guaranteed to the accused under Article 22 of the Constitution of India. In the instant case, since the representation of the detenu is not considered by the Detaining Authority, on the ground of violation of his fundamental rights, the impugned order is liable to be set aside.

5. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order, dated 05.02.2016, 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.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To
The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.

2. The Commissioner of Police,
Greater Chennai Police,
Office of the Commissioner of Police,
Vepery, Chennai.

3. The Inspector of Police,
Anti Vice Squad,
Chindadripet,
Chennai.

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

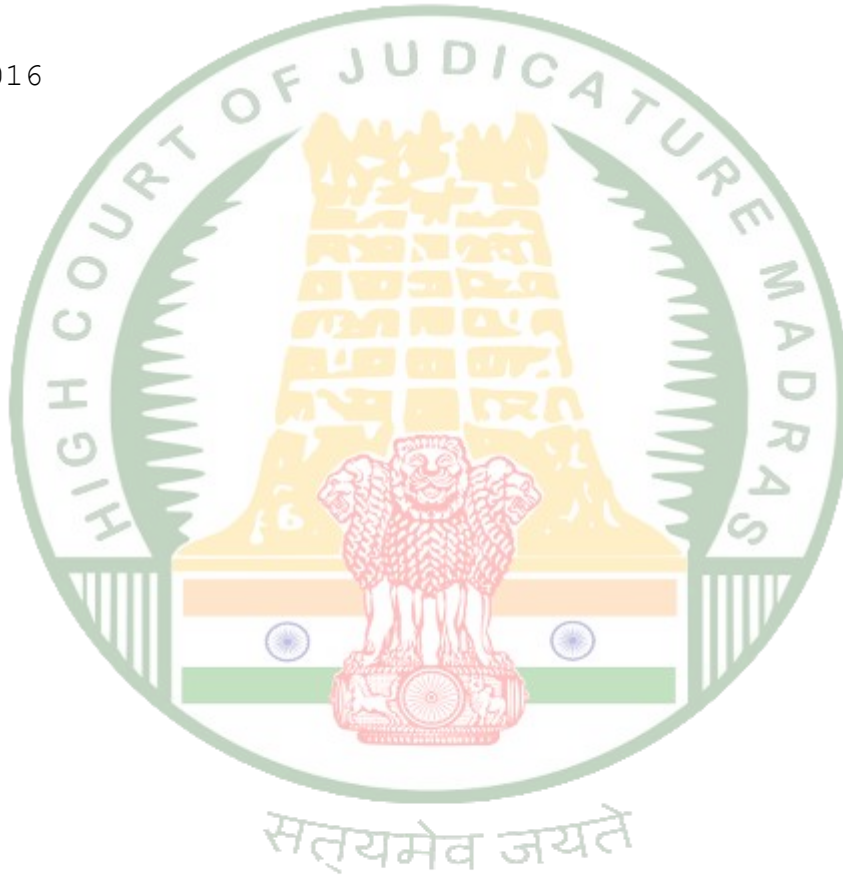
5. The Joint Secretary to Government,
Public (Law and Order),
Fort St. George, Chennai.

6. The Public Prosecutor,
High Court, Madras.

+1 cc to Mr.Thanga Vadhanabalakrishnan Advocate sr.33070

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