

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.10.2016

CORAM

THE HONOURABLE MR.JUSTICE M.JAICHANDREN

AND

THE HONOURABLE MR.JUSTICE S.BASKARAN

H.C.P.NO.519 OF 2016

Murali

... Petitioner

Vs.

1.The Secretary to the Government,
Home Prohibition & Excise Department,
Secretariat,
Chennai - 600 009.

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

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Habeas Corpus calling for the records in connection with the order of detention passed by the second respondent dated 18.02.2016 in Memo No.139/BCDFGISSSV/2016 against the detenu Murali, Male aged 25 years S/o. Arumugam, who is confined at Central Prison, Puzhal II, Chennai and set aside the same and direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner : Mr.S.Senthilvel

For Respondents : Mr.V.M.R.Rajentren
Additional Public Prosecutor

O R D E R

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

This Habeas Corpus Petition has been filed, by the detenu himself, praying that this Court may be pleased to issue a Writ of Habeas Corpus, to call for the records, in proceedings Memo No.139/BCDFGISSSV/2016 dated 18.02.2016 passed by the second Respondent, detaining the detenu / petitioner herein, 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 14/1982), branding him as a "Goonda", in the Central Prison, Puzhal II, 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. The petitioner herein was detained under Tamil Nadu Act 14 of 1982 as per the order passed by the second respondent dated 18.02.2016 under the head of "Goonda". Aggrieved over the same, the present Habeas Corpus Petition has been filed by the petitioner.

3. Amidst several grounds, the learned counsel appearing on behalf of the petitioner submits that there is variation between the English and vernacular version of the remand order dated 29.01.2016 passed in Crime No.186 of 2016 under Sections 294(b), 323 and 506(i) IPC. In the English version, it is specifically stated that "*Prima facie case is made out*", whereas, in the vernacular version, the same is missing.

4. The learned counsel appearing on behalf of the petitioner further pointed out that in the English version of arrest report dated 29.01.2016, in Serial No.6, it is stated as "ePjpkd;w fhtYf;F cl;gLj;jg;gl;lJ." whereas, in the vernacular version, it is stated as follows:

"29.01.2016 e; njjp ePjpp;Jiw eLth;/
jkh;guk; mth;fs; Kd;g[M\$h;gLj;j
mDg;gpitf;fg;gl;lJ."

5. The learned counsel appearing on behalf of the petitioner also pointed out that in the complaint, an

endorsement has been made by the Inspector of Police, S 14, Peerakkankaranai Police Station, Chennai. But the same was not furnished to the petitioner in vernacular. Therefore, the learned counsel appearing on behalf of the petitioner contended that on the above said ground alone, the detention order is liable to be quashed.

6. On verification of the booklet, at page Nos.147 and 149, it comes to light that there is variation in translation between the English and vernacular version in respect of the arrest report as stated above. Similarly, at page Nos.159 and 161, variation is found in the remand order. Thus, when there is discrepancy between the English and vernacular version, as rightly contended by the learned counsel appearing on behalf of the petitioner, the detenu is deprived of an opportunity to make an effective representation. For the above said reason, the impugned order of detention cannot be sustained.

7. Accordingly, the impugned order of detention dated 18.02.2016 passed in Memo No.139/BCDFGISSSV/2016 is quashed and the Habeas Corpus Petition is allowed. The detenu is directed to be set at liberty, forthwith, unless his presence is required in connection with any other case.

Sd/
Assistant Registrar

/True copy/

Sub Assistant Registrar

To

1.The Secretary to the Government,
Home Prohibition & Excise Department,
Secretariat,
Chennai - 600 009.

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

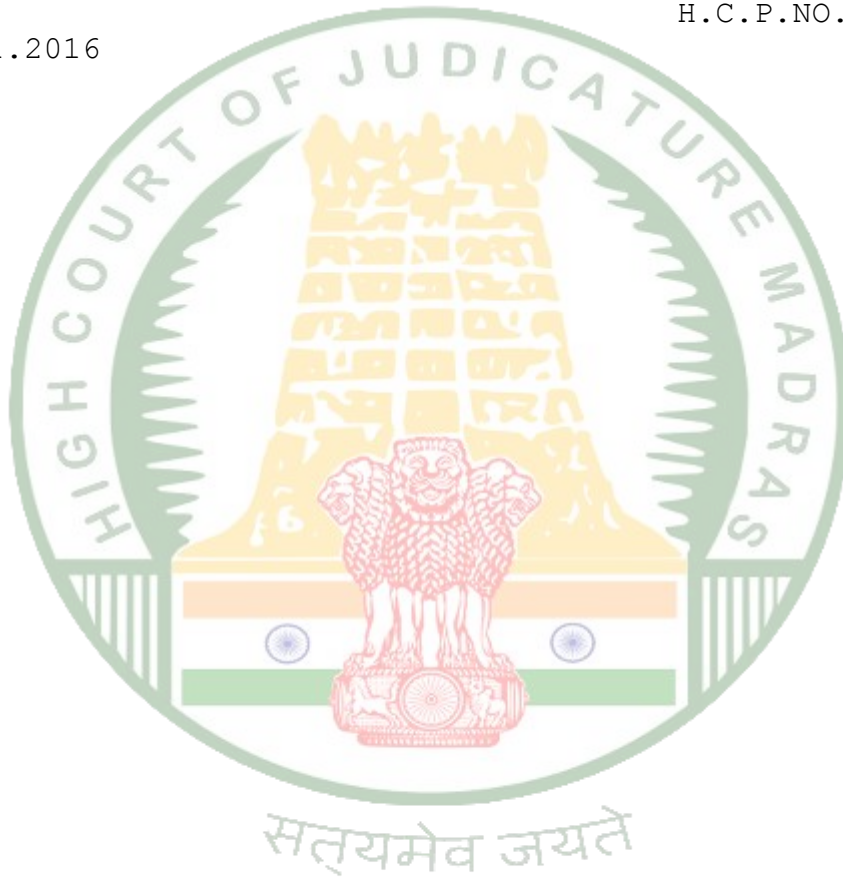
3 The Superintendent,
Central Prison,
Puzhal-II, Chennai.

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

5.The Public Prosecutor,
High Court of Madras,
Chennai.

H.C.P.NO.519 OF 2016

SDR 12.11.2016



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