

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.10.2016

CORAM

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

H.C.P.No.702 of 2016

Penuvel

.. Petitioner /Brother of the
detenu

Vs

- 1.The State of Tamil Nadu,
represented by its Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai-600 009.
- 2.The Commissioner of Police,
Salem City,
Salem District.

.. 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 his proceedings in C.M.P.No.14/Goonda/Salem City/2016, dated 11.3.2016, against the petitioner's brother Duraisamy, son of Krishnan, aged about 33 years, who is confined at Central Prison, Salem and set aside the same and to direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner : Mr.R.Sankarasubbu

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

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ORDER

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

This Habeas Corpus Petition has been filed by the brother of the detenu, Duraisamy, son of Krishnan, aged about 33 years, to issue a Writ of Habeas Corpus, to call for the

records, in C.M.P.No.14/Goonda/Salem City/2016, dated 11.3.2016, 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 her as a "Goonda", in the Central Prison, Salem, 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. Though, several grounds had been raised by the petitioner, while challenging the impugned order of detention, dated 11.3.2016, the learned counsel, appearing on behalf of the petitioner, had submitted that, in the booklet furnished to the detenu, page Nos.137 and 163 are 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 the copies of the documents relied upon and referred to by the detaining authority, in page Nos.137 and 163 of the booklet, are found illegible. As such, we find that the furnishing of the illegible copies of the documents has caused prejudice to the detenu, in making an effective representation against the impugned order of detention, dated 11.3.2016. 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 11.3.2016, 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.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant 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,
Salem City,
Salem District.

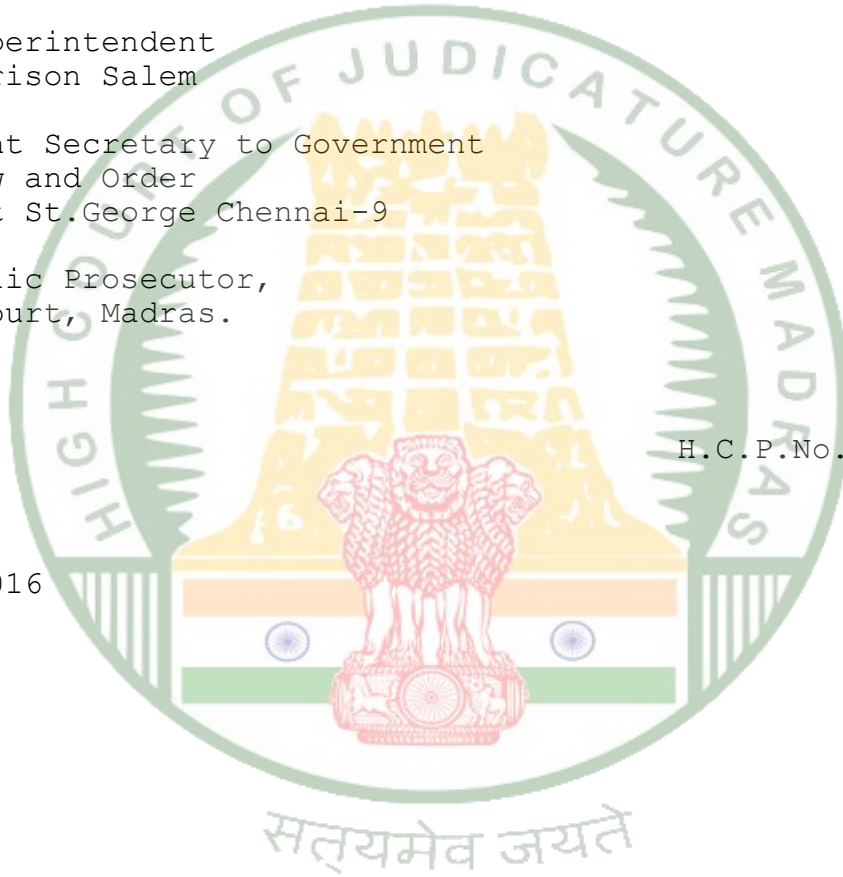
3. The Superintendent
Central Prison Salem

4.The Joint Secretary to Government
Public Law and Order
Fort Saint St.George Chennai-9

5.The Public Prosecutor,
High Court, Madras.

H.C.P.No.702 of 2016

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