

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 3.11.2016

CORAM

THE HONOURABLE MR.JUSTICE M.JAICHANDREN
and
THE HONOURABLE MR.JUSTICE S.BASKARAN

H.C.P.No.883 of 2016

Tmt. Janagi

...Petitioner

Vs.

1.The State of Tamil Nadu
represented by its Secretary to Government
Home, Prohibition and Excise (XVI) Department
Fort. St. George, Secretariat, Chennai-9.

2.The District Collector and District
Magistrate of Vellore District
Vellore.

...Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS, directing the respondents to call for the records in C3/D.O.No.21/2016, dated 04.04.2016 on the file of the second respondent and quash the same as illegal and direct the respondents to produce the detenu, namely, Kumar, Son of Chinnapaiyan, aged about 25 years, now confined in Central Prison, Vellore, and to set him at liberty.

For Petitioner : M/s.E. Kannadasan
For Respondents : Mr.V.M.R.Rajentren,
Additional Public Prosecutor

ORDER

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

This Habeas Corpus Petition has been filed by the wife of the detenu, namely, Kumar, son of Chinnapaiyan, aged about 25 years, to issue a Writ of Habeas Corpus, to call for the records, in C3/D.O.No.21 of 2016, dated 04.04.2016, 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 him as a "Bootlegger", in the Central Prison, Vellore, and to quash the same and to direct the Respondents to produce the body of the

detenu and to set him at liberty.

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 have been raised in this Habeas Corpus Petition, the learned counsel for the petitioner mainly contends that as per the remand memo, which is available at page 4 of the booklet, the detenu was arrested on 7.1.2016, whereas in the remand order, it is stated that the detenu was produced before the Judicial Magistrate No.III, Vellore, only on 7.3.2016, which shows the non application of mind by the detaining authority.

4. Further, the learned counsel for the petitioner has submitted that the copy of Form No.91, which is available at page No.22 of the booklet is illegible. Though the alleged contraband was seized from the detenu on 7.3.2016, it was produced before the court only on 11.3.2016, even though there were no holidays between the seizure and the production of the same before the Magistrate Court.

5. The above submission of the learned counsel for the petitioner has been not been refuted by the learned Additional Public Prosecutor appearing for the respondents.

6. A perusal of the remand memo, which is available at page No.4 of the booklet shows the date of the arrest of the detenu as 7.1.2016, whereas the remand order, dated 7.3.2016, which is available at page No.17 of the booklet, shows the date of production of the detenu before the Judicial Magistrate No.III, Vellore, as 7.3.2016.

7. From the above, it is clear that there is non application of mind on the part of the detaining authority, while passing the detention order. Further, there is a delay of four days between the seizure of the contraband and the production of the same before the Court concerned, which has not been properly explained. Therefore, we are of the view that the order of detention is liable to be quashed.

8. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order, dated 04.04.2016, 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 (CS VI)

/true copy/

Sub Asst. Registrar

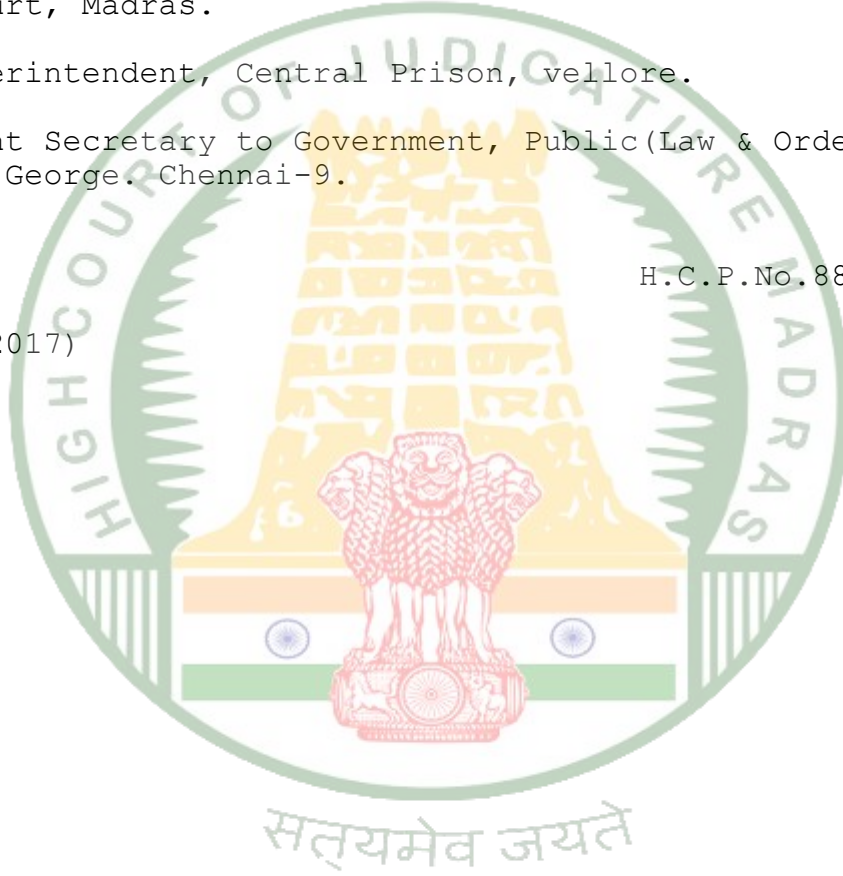
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To

- 1.The Secretary to Government
The State of Tamil Nadu
Home, Prohibition and Excise (XVI) Department
Fort. St. George, Secretariat, Chennai-9.
- 2.The District Collector and District
Magistrate of Vellore District
Vellore.
- 3.The Public Prosecutor
High Court, Madras.
- 4.The Superintendent, Central Prison, vellore.
- 5.The Joint Secretary to Government, Public(Law & Order)
Fort St.George. Chennai-9.

H.C.P.No.883 of 2016

MP (CO)
GN(23/01/2017)



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