

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.10.2016

CORAM

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

H.C.P.No.897 of 2016

Osuran @ Suresh

...Petitioner

Vs.

**1.The Secretary to Government,
Home, Prohibition & Excise Department,
Secretariat,
Chennai - 600 009
2.The Commissioner of Police
Greater Chennai Police.**

..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, in Memo No.385/BCDFGISSSV/2016, dated 1.4.2016, against the detenu, viz., Thiru. Osuran @ Suresh, son of Kothandan, aged about 24 years, who is confined at the Central Prison-II, Puzhal, Chennai, and to set aside the same and to direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner : M/s.S.Senthil Vel
For Respondents : Mr.V.M.R.Rajentren,
Additional Public Prosecutor

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ORDER

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

This Habeas Corpus Petition has been filed, by the detenu, namely, Osuran @ Suresh, son of Kothandan, aged about 24 years, praying that this Court may be pleased to issue a Writ of Habeas Corpus, to call for the records, in Memo No.385/BCDFGISSSV/2016, dated 1.4.2016, passed by the second respondent, detaining the detenu 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 of 1982), branding him as a “Goonda”, in the Central Prison-II, Puzhal, Chennai 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 and the learned Additional Public Prosecutor appearing on behalf of the State and we have also perused the records, carefully.

3. Though, various grounds had been raised in the affidavit filed in support of the petition, the learned counsel, appearing on behalf of the petitioner, had assailed the order of detention mainly on the ground that the copy of the remand extension order, in Cr.No.384 of 2015, on the file of R-4, Soundarapandianar Angadi Police Station, Chennai, dated 3.3.2016, passed by the XVII Metropolitan Magistrate, Chennai, furnished to the detenu, at page No.363 of the booklet supplied to him, is 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 copy of the document relied upon and referred to by the detaining authority, which is available at page No.363 of the booklet, is illegible. As such, we find that the furnishing of the illegible copy of the remand extension order in Cr.No.384 of 2015, on the file of R-4, Soundarapandianar Angadi Police Station, Chennai, dated 3.3.2016, passed by the XVII Metropolitan Magistrate Court,

Chennai, would prejudice the detenu, in making an effective representation against the impugned order of detention, dated 1.4.2016. 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 1.4.2016, 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.

[M.J. J.] [S.B.J.,]

20.10.2016

Index : Yes/No

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To

1.The State of Tamil Nadu
rep by its Secretary to Government,
Prohibition & Excise Department,
Fort St. George,
Chennai - 600 009

2.The Commissioner of Police
Chennai.

3.The Public Prosecutor, High Court, Madras.

**M.JAICHANDREN J.
AND
S.BASKARAN, J.**

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