

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.05.2016

CORAM

THE HON'BLE MR.JUSTICE K.KALYANASUNDARAM
and
THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

H.C.P.No.94 of 2016

Gladys Antony

.. Petitioner

vs.

1. State of Tamil Nadu
Rep. by its Secretary to Government
Home, Prohibition and Excise Department
Secretariat, Chennai 600 009.

2. District Collector and
District Magistrate
Erode District, Erode.

.. Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Habeas Corpus calling for the entire records relating to petitioner's husband detention under Tamil Nadu Act 14 of 1982 vide detention order, dated 29.12.2015 on the file of the second respondent herein made in proceedings Cr.M.P.No.46/Bootlegger/2015 C1 and quash the same as illegal and consequently direct the respondents herein to produce the said petitioner's husband namely Kishore @ Manoj @ Antony Joseph, S/o Joseph, aged 47 years before this Court and set the petitioner's husband at liberty from detention, now petitioner's husband detained at Central Prison, Coimbatore.

For Petitioner : Mr. C.C.Chellappan

For Respondents : Mr.M.Maharaja

Addl. Public Prosecutor

O R D E R

[Order of the Court was made by K.KALYANASUNDARAM, J.]

Challenge is made to the order of detention passed by the second respondent vide Proceedings in Cr.M.P.No.46/Bootlegger/2015 C1 dated 29.12.2015, whereby the detenu, namely Kishore @ Manoj @ Antony Joseph, S/o Joseph, aged about 47 years, was ordered to be detained under the provisions of Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Cyber Law Offenders, Drug Offenders, Forest

Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Sexual Offenders, Slum-Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982) branding him as a "GOONDA".

2. Even though the learned counsel for the petitioner raised many grounds in assailing the impugned order of detention in the petition, he focused his argument on the ground that in Gobichettipalayam Prohibition Enforcement Wing Cr.No.861 of 2015, the bail application filed by the detenu in CrI.M.P.No.1622 of 2015 was dismissed by the learned Principal District and Sessions Judge, Erode on 08.12.2015 and thereafter, no fresh application was filed by him seeking bail. When that be so, the satisfaction arrived at by the

detaining authority, that there is likelihood of the detenu coming out on bail is absolutely baseless.

3. We have considered the above submissions.

4. As rightly pointed out by the learned counsel for the petitioner, from paragraph 5 of the detention order, it is crystal clear that the detenu had not filed any application seeking bail, after dismissal of the earlier application. When that be so, it is not explained to the Court as to how the detaining authority has come to the conclusion that there was real possibility of the detenu coming out on bail. This shows the predetermined mind of the detaining authority. In such view of the matter, the detention order is liable to be quashed.

5. Accordingly, the habeas corpus petition is allowed and the detention order passed by the 2nd respondent is quashed. The detenu is directed to be set at liberty, forthwith, unless his presence is required in connection with any other case.

सत्यमेव जयते

Sd/-
Assistant Registrar(VI)

//True Copy//

Sub Assistant Registrar

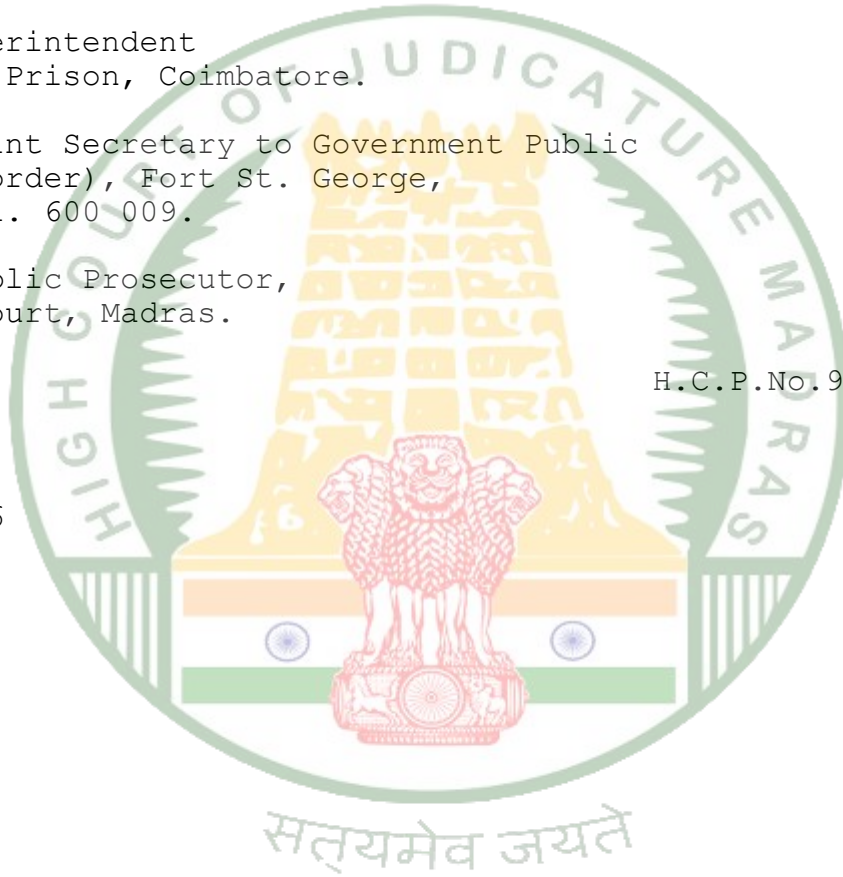
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To

1. State of Tamil Nadu
Rep. by its Secretary to Government
Home, Prohibition and Excise Department
Secretariat, Chennai 600 009.
2. District Collector and District Magistrate
Erode District, Erode.
3. The Superintendent
Central Prison, Coimbatore.
4. The Joint Secretary to Government Public
(Law & order), Fort St. George,
Chennai. 600 009.
5. The Public Prosecutor,
High Court, Madras.

H.C.P.No.94 of 2016

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