

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 18.10.2016

CORAM

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

H.C.P.No.987 of 2016

Kamatchi

...Petitioner

Vs

1. The Principal Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George, Chennai-9.
2. The Commissioner of Police,
Greater Chennai City, Chennai-3.
3. The Superintendent of Prison,
Central Prison, Puzhal,
Chennai.

...Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS to direct the respondents to produce the petitioner's son Karthik @ Nandakumar, S/o.Jagadeesan aged 23 years who is under the custody of the 3rd respondent before this Hon'ble Court and set him at liberty according to his will by calling for the records relating to the order of detention passed by the 2nd respondent in 394/BCDFGISSV/2016 dated 05.04.2016 and quashing the same.

For Petitioner : Mr.R.Rajamani

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

O R D E R

[Order of the Court was made by M.JAICHANDREN. J.,]

This Habeas Corpus Petition has been filed by the mother of the detenu to issue a Writ of Habeas Corpus, to call for the records relating to the Detention Order No. 394/BCDFGISSV/2016, dated 05.04.2016 passed by the 2nd respondent, detaining the detenu, namely, Karthik @ Nandakumar, S/o.Jagadeesan, aged about 23 years, S/o.Jagadeesan, 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), the Tamil Nadu Act 14 of 1982, branding him as a "Goonda", in the Central Prison, Puzhal, 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 for the State and we have also perused the records, carefully.

3. Though, several grounds have been raised in this Habeas Corpus Petition, Mr.R.Rajamani, learned counsel appearing for the petitioner had submitted that the order copy, in CrI.O.P.No.1527 of 2015, which is referred to as a similar case, furnished to the detenu, in page Nos.119 and 120 of the booklet and the confession statement of the accused, furnished to the detenu, in page Nos.142 and 143 of the booklet, are illegible. The request made by the detenu, requesting the authority concerned, to furnish legible copies of the same, had not been complied with. As illegible copies had been furnished, it would deprive the detenu from making an effective representation to the authorities concerned, against the order of detention. Thus, the detention order is vitiated on these grounds 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 documents referred and relied upon and referred to by the Detaining Authority, in particular, page Nos.119, 120, 142 and 143, are illegible and are totally unreadable. This has resulted in the detenu being deprived of the opportunity of making an effective representation against the impugned order of detention. In such circumstances, we find that there is non-application of mind on the part of the Detaining Authority, in passing the detention order. Therefore, we are inclined to set aside the impugned detention order.

6. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order No.394/BCDFGISSV/2016, dated 05.04.2016, passed by the 2nd respondent is set aside. The detenu is directed to be released forthwith unless his presence is required in connection with any other case.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

gya

To

1. The Principal Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George, Chennai-9.
2. The Commissioner of Police,
Greater Chennai City, Chennai-3.
3. The Superintendent of Prison,
Central Prison,
Puzhal, Chennai.

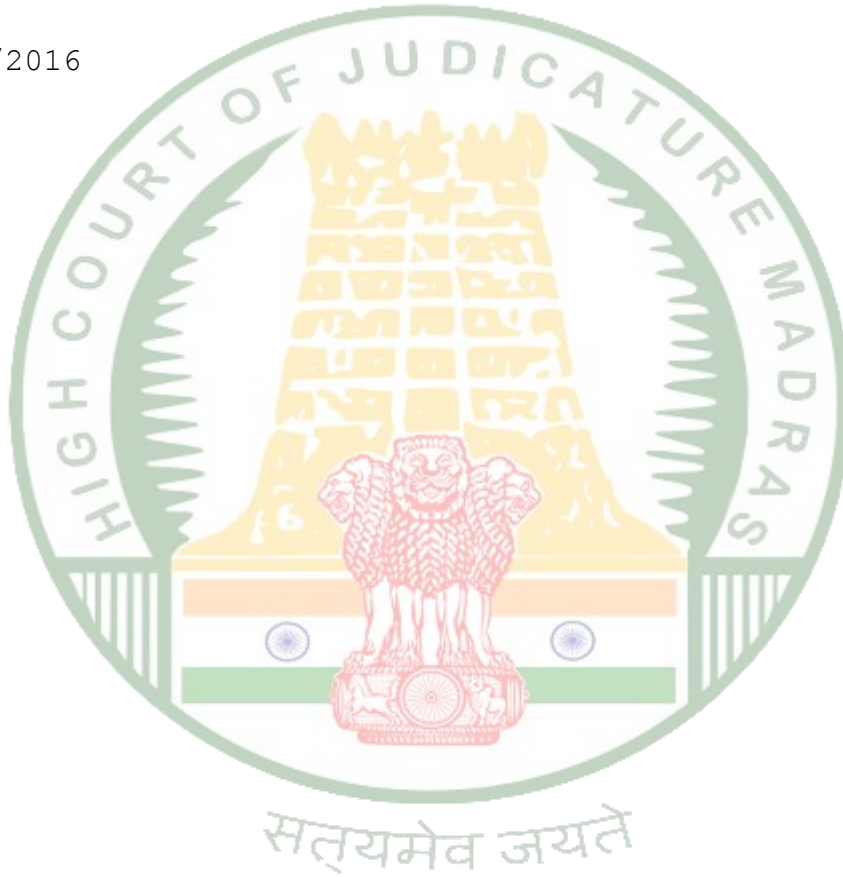
4. The Public Prosecutor,
High Court, Madras.

5. The Joint Secretary to Government,
(Law and Order), Fort St. George,
Chennai - 9.

+1CC to M/s. Sarfudeen Ali Ahamed, Advocate, SR 59298

H.C.P.No.987 of 2016

MV (CO)
PSI 12/11/2016



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