

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.11.2017

CORAM:

THE HONOURABLE MR.JUSTICE RAJIV SHAKDHER
and

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

H.C.P.No.1877 of 2017

Maliga

... Petitioner

-vs-

1. The State of Tamilnadu Rep.by
The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George,
Chennai - 600 009.

2. The District Magistrate cum
The District Collector
Namakkal,
Namakkal District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, directing the respondents to produce the petitioner's son by name Shanmugasundaram Son of Ponnaiyan, aged 17 years before this Court now confined in District Borstal School, Pudhukottai set him at liberty and to call for the records pertaining to the order of detention passed in C.M.P.No.10/Goonda/2017/M1 dated 18.08.2017 passed by the 2nd respondent and set aside the same.

For Petitioner : Mr.T. Muruganantham

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

Additional Public Prosecutor

O R D E R

[Order of the Court was made by RAJIV SHAKDHER, J.]

1. The petition seeks to challenge the detention order dated 18.08.2107. The petition has been filed by the mother of the detainee/ Thiru.Shanmugasundaram son of Ponaiyan.

2. According to the petitioner, on the date when the impugned detention order was passed, the detainee was only 17 years of age. For this purpose, the petitioner relies upon the transfer certificate dated 11.06.2013 issued by the Government of Tamil Nadu, Department of Education. Our attention is drawn to the fact that in the said certificate the date of birth of detainee is given as: 15.01.2000.

3. The detainee was arrested on 26.06.2017. We had issued notice in this petition on 12.10.2017. To date no counter affidavit has been filed.

4. A perusal of the petition shows that, in ground (b), a specific plea has been taken with regard to the assertion advanced before us, which is that, the detainee, on the date of detention, was 17 years of age. This assertion advanced by the petitioner remains uncontroverted.

5. Therefore, having regard to the fact that the detainee was a juvenile under the Juvenile Justice Act, 2015, on the date of his detention, he could not have been detained by the detaining authority. Accordingly, the detention order is quashed. The detainee/Thiru. Shanmugasundaram, male aged 17 years, son of Ponaiyan will be released forthwith. Given the nature of the case, this order will be communicated to the Superintendent, District Borstal School, Pudukottai, by the Registrar General of this Court via Fax.

Sd/-
Assistant Registrar(CS III)

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सत्यमेव जयते
Sub Assistant Registrar

ggs

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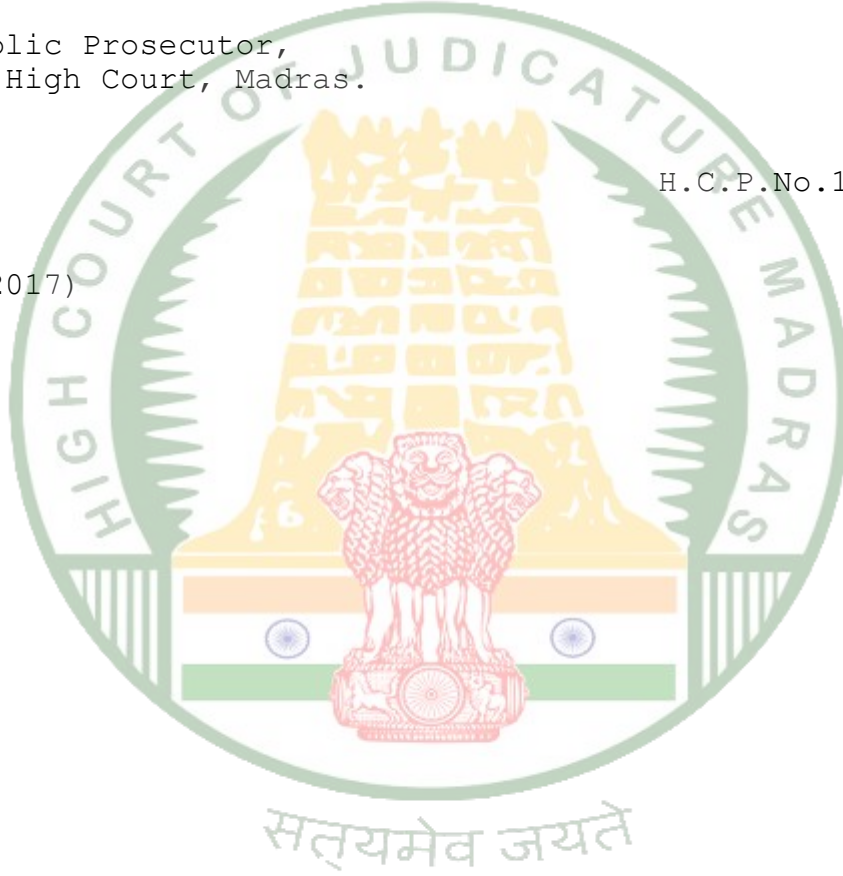
1. The State of Tamilnadu Rep.by
The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George,
Chennai - 600 009.

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2. The District Magistrate cum
The District Collector
Namakkal,
Namakkal District.
3. The Joint Secretary to Government,
Public, Law and Order Department,
Government of Tamil Nadu,
Fort St. George, Chennai - 600 009.
4. The Superintendent, District Borstal School
Pudhukottai.
5. The Public Prosecutor,
Madras High Court, Madras.

H.C.P.No.1877 of 2017

VR(06/11/2017)



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