

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 12.05.2017

CORAM

THE HONOURABLE MR. JUSTICE M.V.MURALIDARAN
and
THE HONOURABLE MR.JUSTICE S.BASKARAN

H.C.P No.191 of 2017

Kanchana

.. Petitioner

Vs

1. The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.
2. The The District Collector & District
Magistrate, Krishnagiri District, Krishnagiri.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Habeas Corpus to call for the records in connection with the order of detention passed by the second respondent dated 22.12.2016 in S.C.No.63/2016 against the petitioner's husband, Muniyappan, S/o.Sundaresan, who is confined at Central Prison, Salem and to set aside the same and consequently direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner : Mr.S.Senthilvel

For respondents : Mr.V.M.R. Rajentren,
Addl. Public Prosecutor

O R D E R

(Order of the Court was made by M.V.Muralidaran, J.,)

The petitioner, who is the wife of the detenu Muniyappan, has come up with this habeas corpus petition, challenging the detention order passed against his son by the second respondent, vide proceedings S.C.No.63/2016 dated 22.12.2016.

2. We have heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the State and we have also perused the records carefully.

3. Admittedly, the detenu does not know to read and write in English. However, the document found in Page No.213 furnished to the detenu which is vital, upon which, reliance has been made by the detaining authority, is in English and the same have not been translated into Tamil and furnished to the detenu. This according to the learned counsel for the petitioner caused serious prejudice to the detenu in making effective representation, to the authorities, against the order of detention.

4. We find force in the said argument of the learned counsel for the petitioner. In our considered view, non supply of translated copies of the vital documents to the detenu would cause serious prejudice to him. Thus, the detention order is vitiated. On this ground, the impugned detention order is liable to be quashed.

5. It is a trite law that, personal liberty protected under Article 21, is so sacrosanct and so high in the scale of Constitutional values that, it is the obligation of the detaining authority to show that the impugned detention meticulously accords with the procedure established by law. Preventive detention is preventive and not punitive. When ordinary law of the land is sufficient to deal with, taking recourse to the preventive detention law is illegal.

6. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order, dated 22.12.2016, 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.

-s/d-

Assistant Registrar

True Copy

सत्यमेव जयते

Sub-Assistant Registrar

sra

To

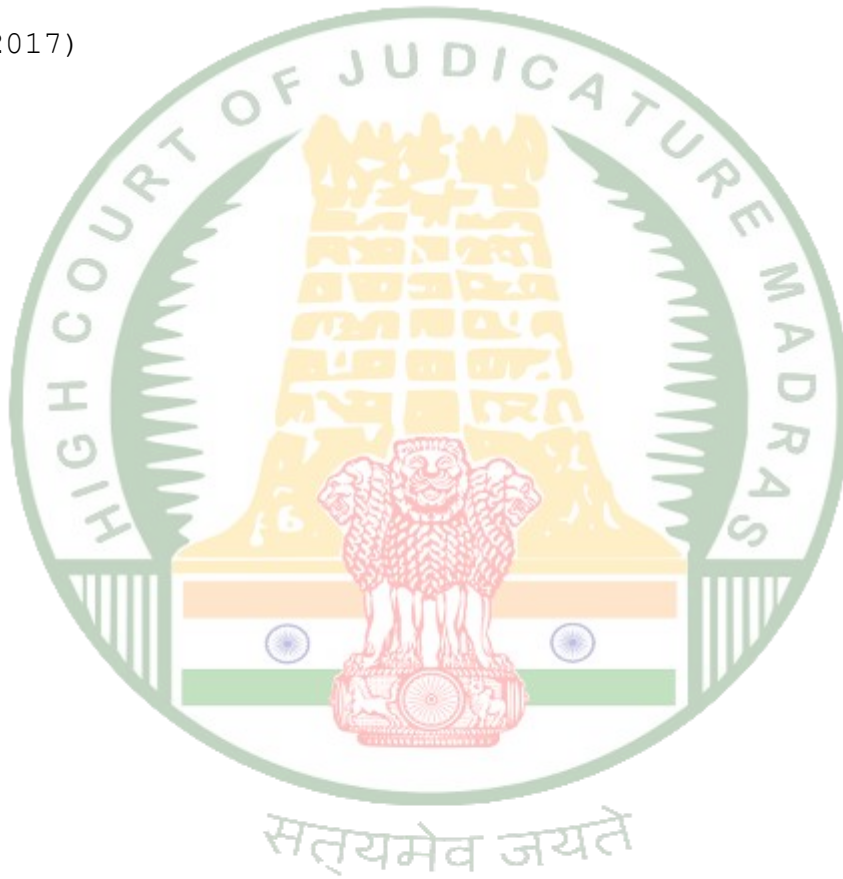
1. The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009
2. The District Collector & District
Magistrate, Krishnagiri District, Krishnagiri.

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3. The Superintendent,
Central prison,
Salem.
4. The Joint Secretary to Government (Law & Order)
Department, Fort.St.George, chennai-600 009.
5. The Public Prosecutor, High Court, Chennai.

H.C.P.No.191 of 2017

RR (CO)
NR (12/06/2017)



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