

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.252 of 2017

Subeena

.. Petitioner

Vs

1. The State of Tamil Nadu,
Rep. By its Secretary to Government,
Home, Prohibition and Excise (XVI) Department,
Fort St. George, Secretariat, Chennai - 600 009.
2. 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 13.12.2016 in S.C.No.57/2016 against the petitioner's husband, Sandeep, s/o.Shanmugam, aged about 31 years, 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.E.Kannadasan
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 Sandeep, has come up with this habeas corpus petition, challenging the detention order passed against her husband by the second respondent, vide proceedings S.C.No.57/2016 dated 13.12.2016.

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. Though, several grounds were raised in the petition, the learned counsel appearing for the petitioner would mainly focus on the ground that the remand order and remand extension order in the second adverse case and the ground case relied upon by the detaining authority were not furnished to the detenu, which prevented him from making an effective representation before the authority concerned against the order of detention, which vitiates the order of detention.

4. Per contra, the learned Additional Public Prosecutor would submit that, the order of detention has been passed, on cogent and sufficient materials and the same cannot be interfered with, at the instance of the petitioner. Therefore, he submits that the Habeas Corpus Petition, does not merit any consideration and the same is liable to be dismissed.

5. We have considered the above submissions. A perusal of the booklet supplied to the detenu would show that the remand order and remand extension order in both the second adverse case and the ground case were not supplied to the detenu in the booklet. This has resulted in the detenu being deprived of making an effective representation. Therefore, the detention order is vitiated and liable to be quashed on this ground alone.

6. 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.

7. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order, dated 13.12.2016, 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.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

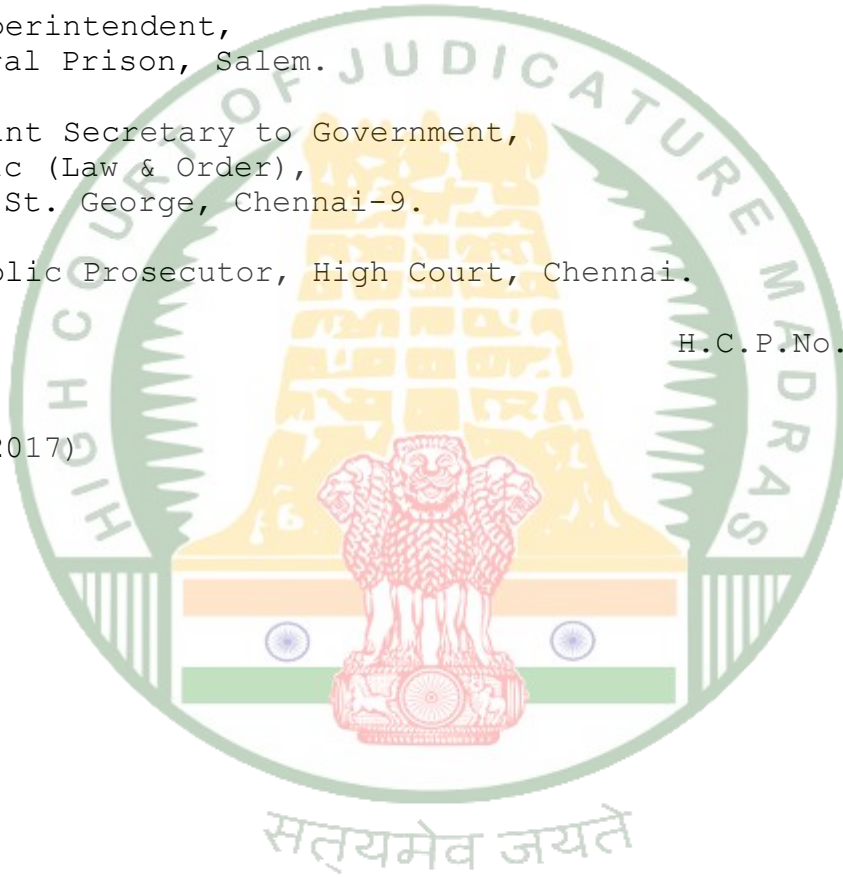
sra

To

1. The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009
2. The District Collector & District
Magistrate, Krishnagiri District, Krishnagiri.
3. The Superintendent,
Central Prison, Salem.
4. The Joint Secretary to Government,
Public (Law & Order),
Fort St. George, Chennai-9.
5. The Public Prosecutor, High Court, Chennai.

H.C.P.No.252 of 2017

GJ(CO)
RS(13/06/2017)



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