

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.407 of 2017

Subramanian

.. Petitioner

Vs

1. State of Tamil Nadu,
Rep. By Secretary to Government,
Prohibition and Excise Department,
Fort St. George, Chennai - 600 009.

2. The Commissioner of Police,
Coimbatore City, Coimbatore.

.. 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 15.02.2017 in C/15/G/IS/2017 against the petitioner's son, S.Senthilkumar @ Thenkasi Senthil, S/o.Subramaniam, aged 42 years, who is confined at Central Prison, Coimbatore, 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.M.Devaraj
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 father of the detenu S.Senthilkumar, son of Subramanian, aged 38 years, has come forward with this petition challenging the detention order passed by the second respondent, dated 15.02.2017, against his son branding him as a "Goonda" under 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].

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

3.Admittedly, the detenu does not know to read and write in English. However, the documents furnished to the detenu which are vital, upon which, reliance has been made by the detaining authority, are 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.In the light of the above facts and law, we have no hesitation in quashing the order of detention on the above mentioned ground.

7.Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order in C.No.15/G/IS/2017 dated 15.02.2017 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//

rg

Sub Assistant Registrar

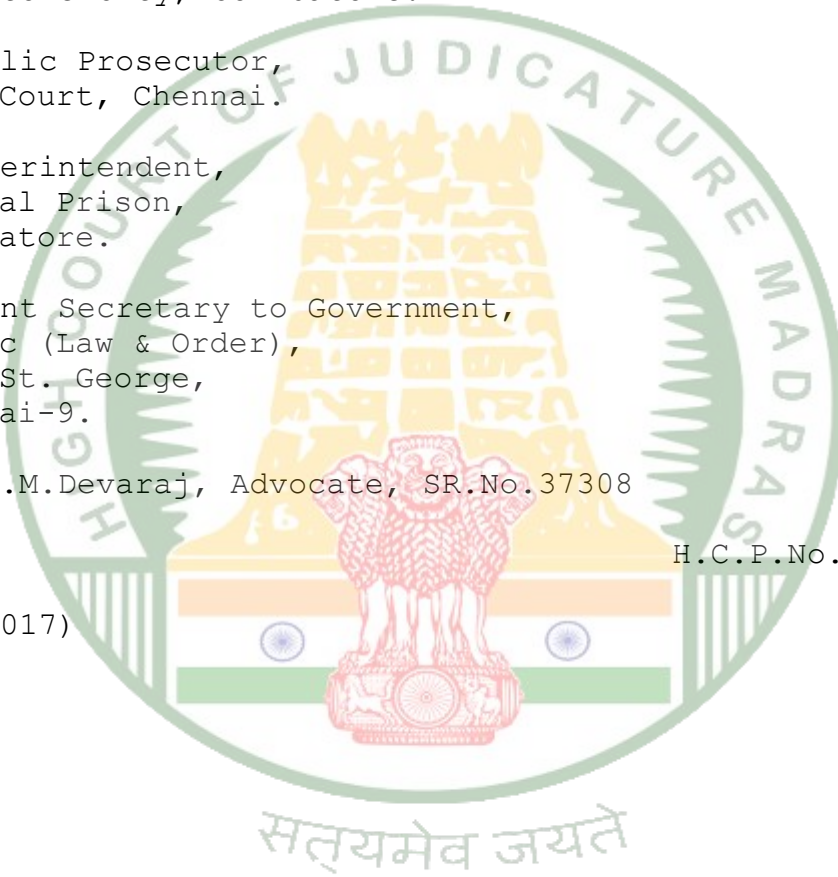
To

1. The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009
2. The Commissioner of Police,
Coimbatore City, Coimbatore.
3. The Public Prosecutor,
High Court, Chennai.
4. The Superintendent,
Central Prison,
Coimbatore.
5. The Joint Secretary to Government,
Public (Law & Order),
Fort St. George,
Chennai-9.

+1cc to Mr.M.Devaraj, Advocate, SR.No.37308

H.C.P.No.407 of 2017

RR (CO)
RS (09/06/2017)



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