

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.01.2017

CORAM

THE HON'BLE MR.JUSTICE M.JAICHANDREN
and
THE HON'BLE MR.JUSTICE T.MATHIVANAN

H.C.P.No.1355 of 2016

Bharathi .. Petitioner
Vs

1.The State of Tamil Nadu,
rep by its Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai-600 009.

2.The Commissioner of Police,
Chennai city Police,
Commissioner Office, Vepery,
Chennai-600 007.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS, to call for the records relating to the impugned order in No.528/BCDFGISSSV/2016, dated 1.6.2016, on the file of the second respondent herein and to set aside the same as illegal and to direct the respondents to produce the detenu Manikandan @ Pottaimani, son of Ramana, aged about 24 years, now confined in the Central Prison, Puzhal, Chennai before this court and to set him at liberty.

For Petitioner : Mr.S.Senthilvel
for Mr.Ilayaraja Kandasamy

For Respondents : Mr.V.M.R.Rajentran,
Additional Public Prosecutor

ORDER

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

This Habeas Corpus Petition has been filed, by the mother of the detenu, namely, Manikandan @ Pottaimani, aged about 24 years, son of Ramana, praying that this Court may be

pleased to issue a Writ of Habeas Corpus, to call for the records, in No.528/BCDFGISSSV/2016, dated 1.6.2016, passed by the second respondent, detaining the detenu under Section 3(1) of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Cyber Law Offenders, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982), branding him as a "Goonda", in the Central Prison, Puzhal, Chennai and to quash the same and to direct the Respondents to produce the body of the detenu and to 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 on behalf of the State and we have also perused the records, carefully.

3. Though, several grounds had been raised by the petitioner, while challenging the impugned order of detention, dated 1.6.2016, the learned counsel, appearing on behalf of the petitioner, had pointed out that both in the English version and in the vernacular version of the grounds of detention furnished to the detenu, the memo number and the date of the detention order had not been mentioned, at the relevant places, including in paragraph No.2 of the grounds of detention. It had been further stated that page No.12 of the booklet furnished to the detenu, relating to the first adverse case, in Crime No.440 of 2016, on the file of E.5 Foreshore Estate Police Station, with regard to the request for formal arrest, is found illegible. Further, in page No.13 of the booklet, the order, relating to the grant of permission for formal arrest, had been furnished to the detenu in English. However, the translated version of the said order, made by the XXIII Metropolitan Magistrate, Saidapet, Chennai, had not been furnished to the detenu. It had been further submitted that the arrest memo furnished to the detenu, in page No.14 of the booklet, is illegible in nature. Hence, the detenu had not been in a position to make an effective representation against the impugned order of detention. Thus, the detention order is vitiated 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 grounds of detention would show that both in the English version and in the vernacular version of the grounds of detention furnished to the detenu, the memo number and the date of the detention order had not been mentioned, at the relevant places, including paragraph No.2 of

the grounds of detention. It is further noted that page No.12 of the booklet furnished to the detenu, relating to the first adverse case, in Crime No.440 of 2016, on the file of E.5 Foreshore Estate Police Station, with regard to the request for formal arrest, is found illegible. Further, in page No.13 of the booklet, the order, relating to the grant of permission for formal arrest, had been furnished to the detenu in English. However, the translated version of the said order, made by the XXIII Metropolitan Magistrate, Saidapet, Chennai, had not been furnished to the detenu. It is further noted that the arrest memo furnished to the detenu, in page No.14 of the booklet, is illegible in nature. As such, we find that the non mentioning of the memo number and the date of detention order, in the grounds of detention, would clearly show the non application of mind on the part of the detaining authority. Further, furnishing of illegible copies of the relevant documents and the non furnishing of the translated version of the permission granted for formal arrest, has caused prejudice to the detenu, in making an effective representation against the impugned order of detention, dated 1.6.2016. Therefore, we are inclined to set aside the impugned detention order.

6. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order, dated 1.6.2016, 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/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

vvk

To

1.The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George,
Chennai-600 009

2.The Commissioner of Police,
Chennai city Police,
Commissioner Office, Vepery,
Chennai-600 007.

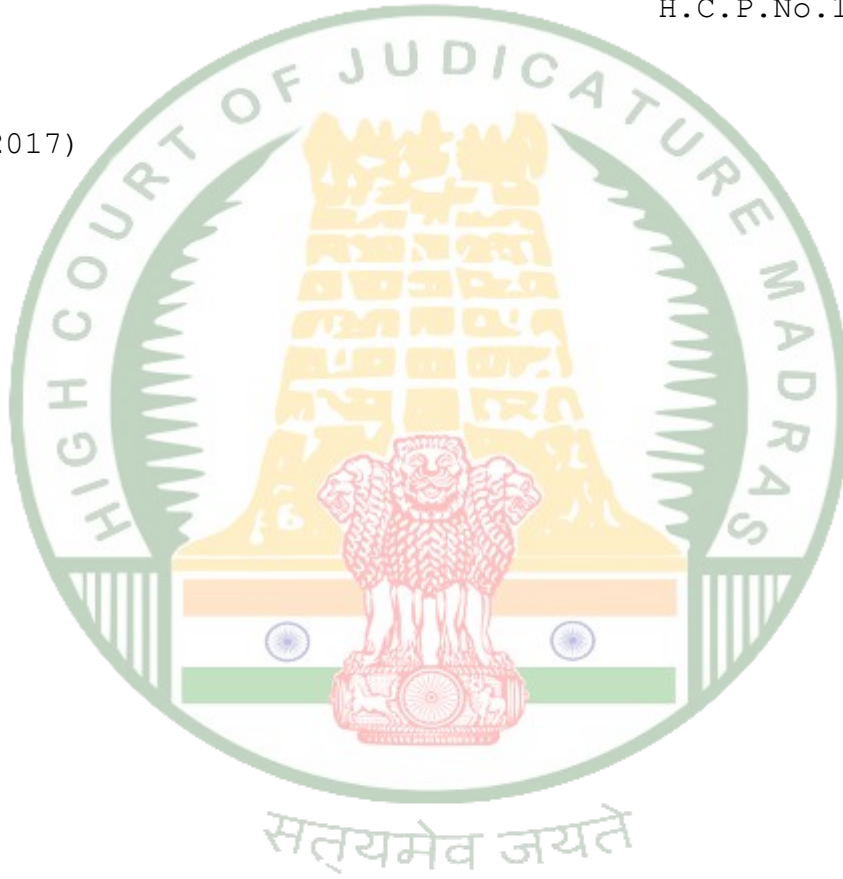
3.The Public Prosecutor,
High Court, Madras.

4.The Superintendent to Government,
Puzhal, Chennai-66

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

H.C.P.No.1355 of 2016

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