

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 17.05.2017

Coram:-

The Honourable Mr. Justice M.M.SUNDRESH
and
The Honourable Mr. Justice R.SUBRAMANIAN

Habeas Corpus Petition No.2358 of 2016

Swetha ... Petitioner/detenuue

Vs.

1. The State of Tamil Nadu,
Rep., by its Secretary to the Government,
Department of Home, Prohibition and Excise,
Secretariat, Chennai-600 009.
2. The Commissioner of Police,
Greater Chennai,
Office of the Commissioner of Police,
Vepery, Chennai-600 007. Respondents

Petition under Article 226 of the Constitution of India for the issuance of a Writ of Habeas Corpus to call for the records in BCDFGISSSV No.1080/2016 dated 28.09.2016 passed by the second respondent under the Tamil Nadu Act 14 of 1982 and direct the respondents to produce the body of the detenuue namely Mrs.Swetha W/A-29, W/o Lenin Sathiya Prabhu, Indian, aged about 29 years now detained in Special Prison for Women, Puzhal, Chennai-66 before this Court and set her at liberty.

For Petitioner : Mr.Y.Shoukath

For Respondents : Mr.E.Raja,
Additional Public Prosecutor

O R D E R

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

The petitioner, who is the detenu by name Swetha, who has been detained by the 2nd respondent under the provisions of the Tamil Nadu Act 14 of 1982 branding him as a 'Goonda' by an impugned Detention Order dated 28.09.2016, challenges the same, in this Habeas Corpus Petition.

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

3. At the foremost, learned counsel for the petitioner submitted that there is enormous delay in disposal of the representation of the detenu, which vitiates the ultimate order of detention. With reference to the above claim, learned Additional Public Prosecutor has placed the details, which show that the representation of the detenu was received by the Government on 27.10.2016 and remarks were called for on the same date and the remarks were received by the Government only on 14.11.2016 and the File was submitted on the same date and the same was dealt with by the Under Secretary and Deputy Secretary also on the same day i.e., on 14.11.2016 and finally, the Minister for Electricity, Prohibition and Excise passed orders on 21.12.2016. The rejection letter was prepared on 22.12.2016 and the same was sent to the detenu on 23.12.2016. From the the above details, it appears that there is a total delay of 33 days (excluding 19 holidays) in considering the representation made by the detenu and there is no explanation for the said delay. In the absence of any explanation, we are inclined to quash the impugned order of detention.

4. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order in BCDFGISVV No.1080 of 2016 dated 28.09.2016 passed by the second respondent is quashed. The detenu, namely, Swetha, wife of Lenin Sathiya Prabhu, is directed to be released forthwith, unless her presence is required in connection with any other case.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

raa

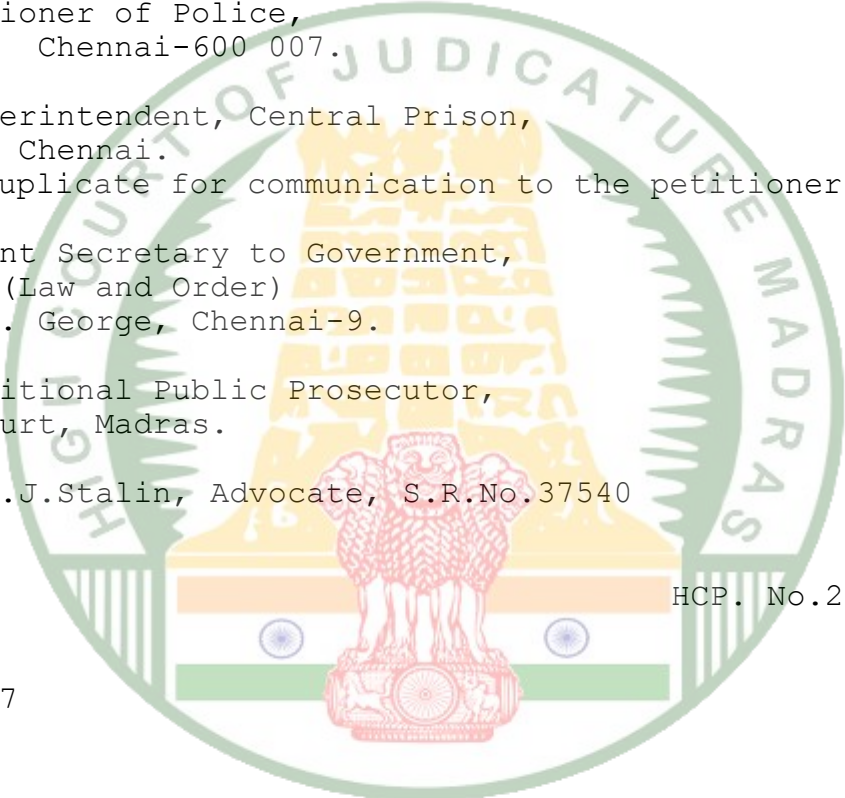
To

1. The Secretary to the Government,
State of Tamil Nadu,
Home, Prohibition and Excise Department,
Secretariat, Fort St. George, Chennai-600 009.
2. The Commissioner of Police,
Greater Chennai, Office of the
Commissioner of Police,
Vepery, Chennai-600 007.
3. The Superintendent, Central Prison,
Puzhal, Chennai.
(In duplicate for communication to the petitioner)
4. The Joint Secretary to Government,
Public (Law and Order)
Fort St. George, Chennai-9.
5. The Additional Public Prosecutor,
High Court, Madras.

+1cc to Mr.J.Stalin, Advocate, S.R.No.37540

HCP. No.2358 of 2016

NM(CO)
CS/13/06/17



सत्यमेव जयते

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