

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 27.04.2017

CORAM

THE HONOURABLE MR. JUSTICE S.NAGAMUTHU
and
THE HONOURABLE DR.JUSTICE ANITA SUMANTH

H.C.P No.2396 of 2016

Mrs.R. Nathiya

...Petitioner

Vs

1. State of Tamil Nadu
rep by Secretary to Government,
Prohibition & Excise Department,
Fort St. George, Chennai
2. The Commissioner of Police,
Salem City, Salem District ... Respondents

Habeas Corpus Petition filed under Article 226 of the Constitution of India to issue a Writ, order or Direction in the nature of a Writ of Habeas Corpus to call for the entire records in connection with detention order passed in CMP No.38/Goonda/Salem City/2016 dated 24.05.2016 on the file of the 2nd respondent herein and set aside the same and direct the respondents herein to produce the detenu Mr.Raja, S/o Ganesan, who is confined in Central Prison, Salem before this Court and set him at liberty.

For Petitioner: Mr. Andrew Vivek Manoah

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

ORDER

(Order of the Court was made by S. NAGAMUTHU,J.,)

The petitioner, who is the wife of the detenu Raja, S/o Ganesan, about 27 years has come up with this habeas corpus petition, challenging the detention order passed against her husband Raja by the second respondent, vide proceedings No. CMP No.38/Goonda/Salem City/2016 dated 24.05.2016, 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 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 only in respect of non-application of mind on the part of the detaining authority in passing the order of detention.

4. Learned counsel appearing for the petitioner submitted that certain other pages in the booklet furnished to the detenu are illegible and could not be read at all. This illegible copies would deprive the detenu of making effective representation to the authorities against the order of detention. Thus, the detention order is vitiated on these grounds and the same is liable to be quashed.

5. We have gone through the same. A perusal of the booklet supplied to the detenu would show that certain papers in the booklet furnished to the detenu are illegible and could not be read at all. 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. In the light of the above facts and law, we have no hesitation in quashing the order of detention on the above mentioned ground. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order in CMP No.38/Goonda/Salem City/2016 dated 24.05.2016 passed by the 2nd 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

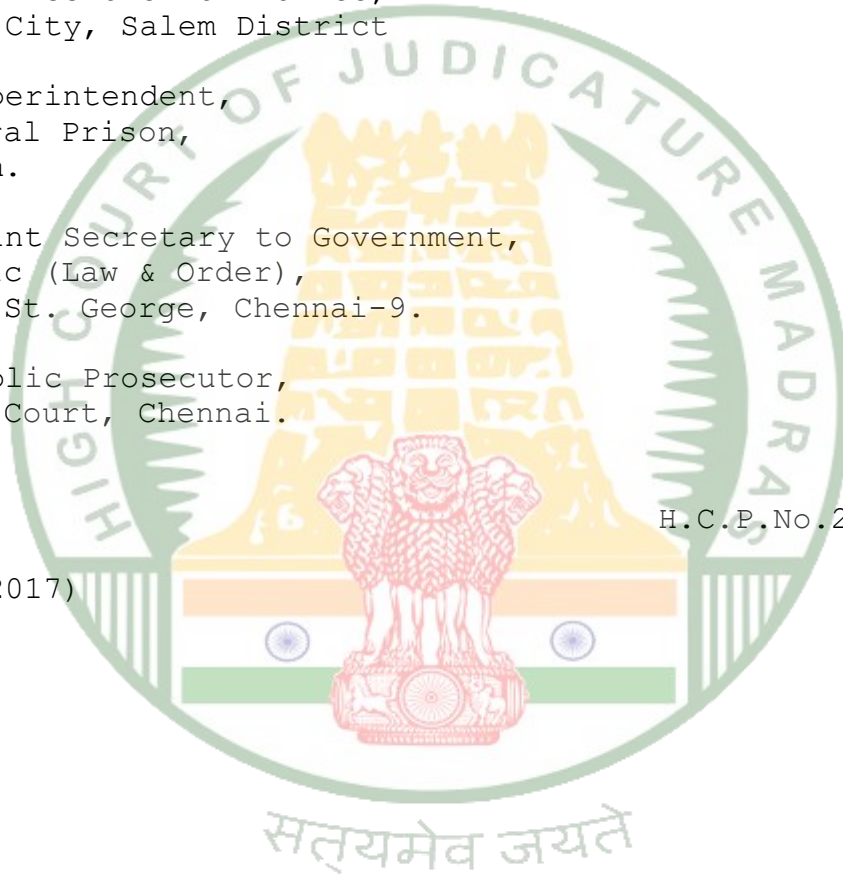
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To

1. The Secretary to Government,
State of Tamil Nadu,
Prohibition & Excise Department,
Fort St. George, Chennai
2. The Commissioner of Police,
Salem City, Salem District
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.

RSI (CO)
RS (11/05/2017)

H.C.P.No.2396 of 2016



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