



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **27.02.2017**

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

AND

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

H.C.P. (MD) No.1494 of 2016

Lakshmi

: Petitioner

Vs.

1.The Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai-600 009.

2.The District Magistrate and District Collector,
Pudukkottai District,
Pudukkottai.

3.The Superintendent of Prison,
Central Prison,
Tiruchirappalli.

: Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Habeas Corpus, to call for the records pertaining to the impugned detention order passed by the second respondent made in his proceedings in P.D.O.No.20/2016, dated 02.11.2016 in detaining the detenu under Section 2(f) of the Tamil Nadu Act 14 of 1982, as a GOONDA and quash the same and direct the respondents to produce the detenu, namely Panneerselvam, S/o.Nallaiah, Male, aged about 57 years, who is detained in Central Prison, Tiruchirapalli, before this Court and set him at liberty.

For Petitioner

: Mr.D.Selvam,

For Mr.V.Sankaranarayanan

For Respondents

: Mr.C.Mayilvahana Rajendran,

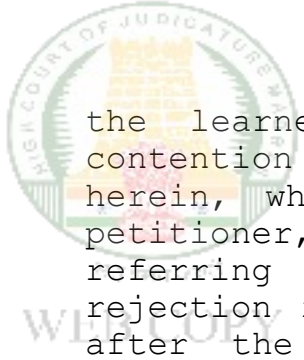
Additional Public Prosecutor

ORDER

[Order of the Court was made by **R.SUBBIAH, J**]

The petitioner is the wife of the detenu - Panneerselvam, S/o.Nallaiah, aged about 57 years. The detenu has been detained by the second respondent by his order in P.D.O.No.20/2016, dated 02.11.2016, holding him to be a "Goonda", as contemplated under Section 2(f) of Tamil Nadu Act 14 of 1982. Challenging the same, the petitioner has come up with the present Habeas Corpus Petition.

2. Though a number of grounds have been raised in the affidavit filed in support of the petition to assail the Order of Detention,



the learned counsel for the petitioner mainly relies on the contention that the Detaining Authority, viz., the second respondent herein, who received a representation dated 07.11.2016 from the petitioner, who is none other than the wife of the detenu, without referring the same to the Government, chose to pass an order of rejection rejecting the said representation on 26.11.2016, namely, after the Detention Order was approved by the Government on 13.11.2016 and that the said rejection order should be viewed as one passed by an authority which had become *functus officio*. Therefore, the same would vitiate the order of detention.

3. We have also heard the learned Additional Public Prosecutor in reply to the above said contention.

4. Admittedly, the representation was made by the petitioner on 07.11.2016 to the second respondent. By this time, the detention order was approved by the Government on 13.11.2016. However, without considering the said fact, the second respondent rejected the representation on 26.11.2016. As such, there is substance in the contention of the learned counsel for the petitioner that the rejection order dated 26.11.2016 came to be passed by the Detaining Authority, who had then become *functus officio*. Therefore, on that ground, the impugned detention order is liable to be set aside.

5. In the result, this Habeas Corpus Petition is allowed and the impugned Detention Order, passed by the second respondent, in his proceedings in P.D.O.No.20/2016, dated 02.11.2016, is quashed. The detenu, namely Panneerselvam, S/o.Nallaiah, aged about 57 years, is ordered to be set at liberty forthwith, if he is not required for detention in connection with any other case.

Sd/-

Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar

To

1.The Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai-600 009.

2.The District Magistrate and District Collector,
Pudukkottai District,
Pudukkottai.

3.The Superintendent of Prison,
<https://hcservices.ecourts.gov.in/hcservices/>
Central Prison,
Tiruchirappalli.



4.The Joint Secretary to Government,
Public(Law&Order),
Fort saint George,
Chennai.

5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC TO MR. SANKARANARAYANAN,ADVOCATE, SR NO.10914

SML

MAS/SKN-RSK:13.03.2017:3P-7C

Order made in
H.C.P. (MD)No.1494 of 2016
Dated: 27.02.2017