

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.10.2018

CORAM

THE HONOURABLE MR.JUSTICE C.T.SELVAM
and
THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

H.C.P.No.1051 of 2018

Muniasamy

.. Petitioner

Vs.

1.State of Tamil Nadu,
rep by the Secretary to Government
Home, Prohibition and Excise Department,
Secretariat, Fort St. George, Chennai.

2. The Commissioner of Police,
Greater Chennai,
Vepery, Chennai-7.

.. Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Habeas Corpus, calling for the records relating to the order of detention BCDFGISSSV.NO.268/2018 dated, 27/04/2018 passed by the 2nd respondent and to quash the same and also to direct the detenu Muniasamy, M/A 30 years, S/O.Moorthy, who is presently detained in the Central Prison, Puzhal, Chennai to be produced before this Hon'ble court and set at liberty.

For Petitioner : Mr.C.H.Vinobha Gandhi

For Respondents : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

O R D E R

[Order of the Court was made by C.T.SELVAM, J.]

Challenge is made to the order of detention passed by the second respondent vide Proceedings in Memo No.268/BCDFGISSSV/2018 dated 27.04.2018, whereby the detenu, by name, Muniasamy, son of Moorthy, aged about 30 years, was ordered to be detained under the provisions of 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) branding him as a "Immoral Traffic Offender".

2. The detenu has come to adverse notice in the following case:-

S.No.	Police Station & Cr.No.	Section of Law
1.	Anti Vice Squad-I, Crime No.49/2018	3(2)a, 4(1) & 5(1)(a) of ITP Act

The ground case has been registered against the detenu in Cr.No.19/2018 on the file of Inspector of Police, Anti Vice Squad-II Police Station for offences u/s 3(2)a, 4(1), 5(1)(a), 6(1) & 7(1) of ITP Act. The detention order has been passed by Second respondent in Memo No.268/BCDFGISSSV/2018.

3. We have heard learned counsel for petitioner and learned Additional Public Prosecutor for respondents. Perused the materials on record.

4. Though several grounds have been raised in the Habeas Corpus Petition, learned counsel for petitioner would mainly focus his argument on the ground that the arrest of the detenu has been intimated through 'cellphone', which would vitiate the detention.

5. We have heard learned Additional Public Prosecutor on the above submissions.

6. In the light of the fact that proper procedure has not been followed in intimating the arrest of the detenu, we have no hesitation in quashing the order of detention.

7. Accordingly, the Habeas Corpus Petition is allowed and the detention order passed by the second respondent against the detenu viz., Muniasamy S/o.Moorthy, in No.268/BCDFGISSSV/2018 dated 27.04.2018 is quashed. The above named detenu is ordered to be set at liberty forthwith, unless his custody is required in connection with any other case.

Sd/-

Assistant Registrar (CS-V)

//True copy//

Sub Assistant Registrar

kmi

To:

1.Secretary to Government

Home, Prohibition and Excise Department,
Secretariat, Fort St. George, Chennai.

2. The Commissioner of Police,
Greater Chennai,
Vepery, Chennai-7.

3. The Superintendent of Prison,
Central Prison, Puzhal, Chennai.

4. The Joint Secretary,
Public (Law and order) Department,
Secretariat, Chennai - 600 009.

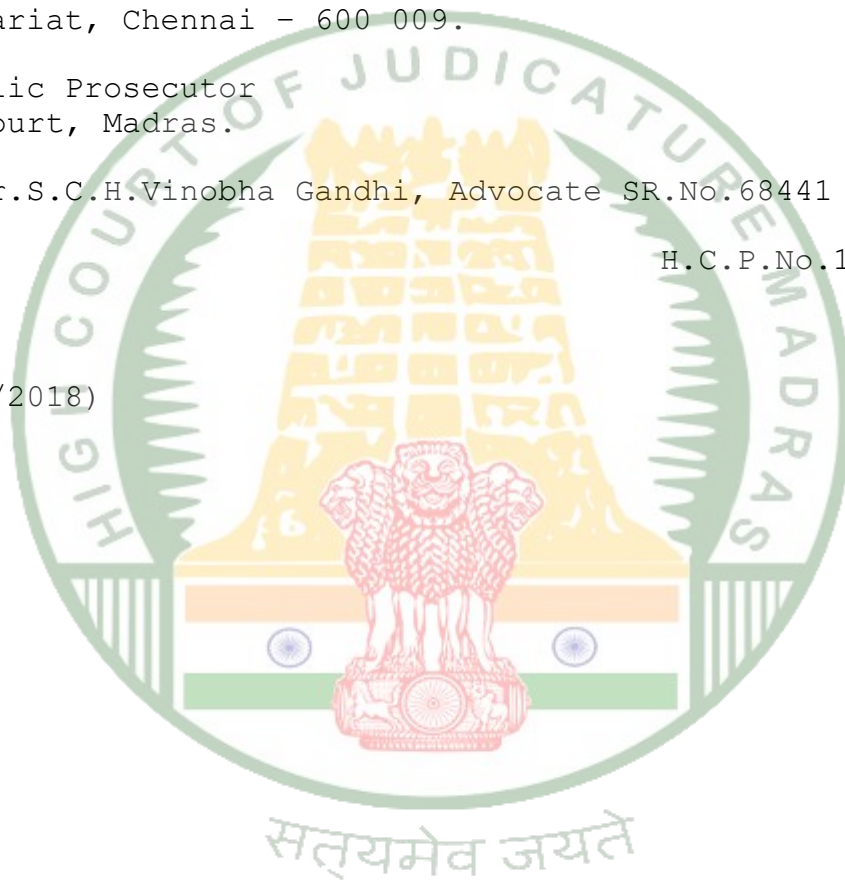
5. The Public Prosecutor
High Court, Madras.

+1cc to Mr.S.C.H.Vinobha Gandhi, Advocate SR.No.68441

H.C.P.No.1051 of 2018

RSK(CO)

GMV (30/10/2018)



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