

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 30.07.2018

CORAM

THE HONOURABLE DR. JUSTICE S.VIMALA
AND
THE HONOURABLE MRS. JUSTICE S.RAMATHILAGAM

H.C.P. NO.201 OF 2018

S.Noor Ahmed

.. Petitioner

- Vs -

1. The State of Tamil Nadu

rep. By the Addl. Chief Secretary to Govt.
Home, Prohibition & Excise Dept.
Secretariat
Chennai 600 009.

2. The Commissioner of Police
Salem City, Salem.

.. Respondents

Petition filed under Article 226 of the constitution of India for the issuance of a writ of habeas corpus calling for the records relating to the impugned order in C.M.P.No.92/Goonda/Salem City/2017 dated 30.12.2017 on the file of the second respondent herein and set aside the same as illegal and direct the respondents to produce the detenu Mustafa, S/o. Noor Ahmed, aged 26 years S/o Noor Ahmed, now confined at Central Prison, Salem before this Hon'ble Court and set him at liberty.

For Petitioner : Mr. D.Mario Johnson

For Respondents: Mr. R.Prathap Kumar,
Addl.Public Prosecutor

ORDER
(DELIVERED BY DR. S.VIMALA, J.)

The second respondent, clamped an order of detention on 30.12.2017 on Mustafa S/o Noor Ahmed, as the said authority arrived at the subjective satisfaction that the said detenu is a 'Goonda' and he has to be detained under Section 3 (1) of Tamil Nadu Act 14 of 1982 with a view to preventing him from acting prejudicial to the interest of public health and public order.

2. Challenging the order of detention, the petitioner has come forward with the present habeas corpus petition.

3. It is contended by the learned counsel for the petitioner that though the detaining authority has expressed subjective satisfaction by placing reliance upon pages 42 to 46, 81 to 85, 173, 242 and 247 of the typed set of documents, however, the said documents are illegible and, therefore, furnishing of illegible copies has prevented the detenu from making an effective representation. Therefore, it is contended that the above clearly shows non application of mind on the part of the detaining authority and the non-application of mind renders the detention illegal and, therefore, it is liable to be quashed.

4. This Court heard the learned Addl. Public Prosecutor on the above contentions.

5. A perusal of the records, particularly pages 42 to 46, 81 to 85, 173, 242 and 247 of the typed set of documents, which is relied upon by the detaining authority to arrive at the subjective satisfaction for detaining the detenu reveal that the said documents are illegible and are not in a readable condition. Furnishing of legible copies of the documents relied upon by the detaining authority is mandatory for enabling the detenu to make an effective representation. The fact that illegible copies of documents, which have been relied on by the detaining authority, being furnished to the detenu, the detenu has been deprived of his valuable right to file an effective representation.

6. On this short ground, the order of detention is liable to be quashed. Therefore, this Court is of the considered view that the order of detention is liable to be quashed.

7. On the above grounds, the order of detention is quashed. The habeas corpus petition is allowed. The detenu, Mustafa S/o Noor Ahmed is ordered to be set at liberty forthwith, unless his custody is otherwise required in any other case.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

KST

To

1. The State of Tamil Nadu
rep. By the Addl. Chief Secretary to Govt.
Home, Prohibition & Excise Dept.
Secretariat
Chennai 600 009.

2. The Commissioner of Police
Salem City, Salem.

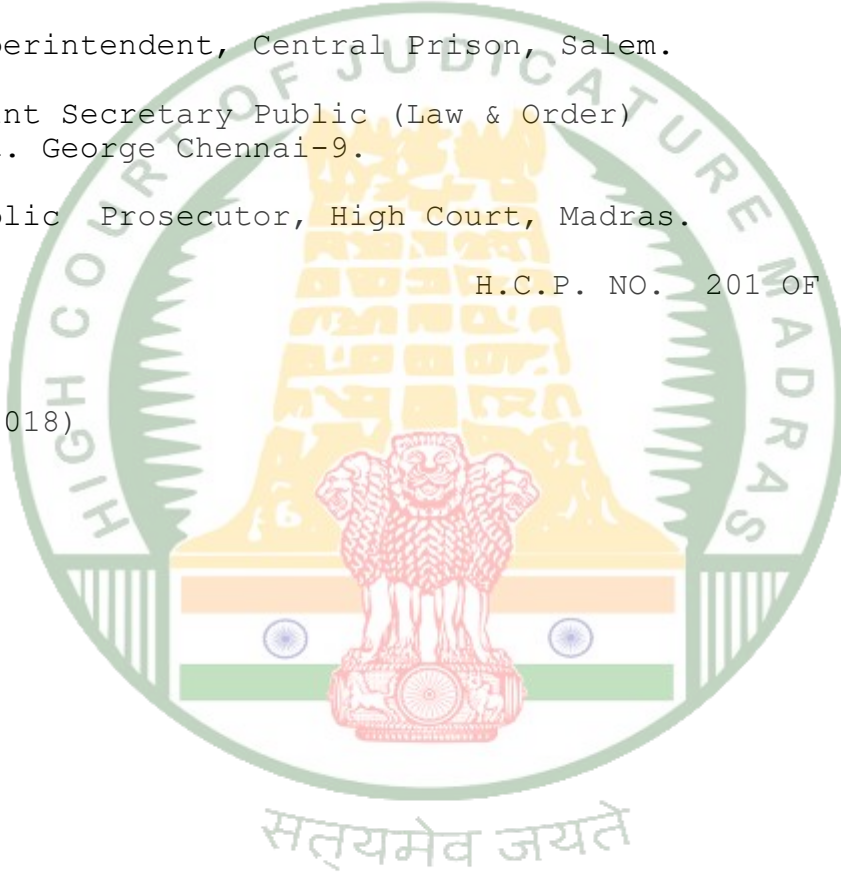
3. The Superintendent, Central Prison, Salem.

4. The Joint Secretary Public (Law & Order)
Fort St. George Chennai-9.

5. The Public Prosecutor, High Court, Madras.

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EU(12/09/2018)



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