

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.08.2018

CORAM

THE HONOURABLE MR.JUSTICE C.T.SELVAM

and

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

H.C.P.No.276 of 2018

Kiran Kashyap
W/o.Yogendra Kashyap Petitioner

vs.

- 1.State of Tamil Nadu
represented by its Secretary,
Home, Prohibition and Excise Department,
Fort St.George, Chennai - 600 009.
- 2.The Commissioner of Police,
The Greater Chennai City,
Vepery, Chennai - 600 007. Respondents

Writ 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 detention order in Memo.No.24/BCDFGISSSV/2018 dated 17.01.2018 passed by second respondent under the Tamil Nadu Act 14 of 1982 and set aside the same and direct the respondent to produce the petitioner's husband Yogendra Kashyap S/o.Ramlal Kashyap, aged about 29 years, the detenu, now confined at Central Prison, Puzhal, Chennai, before this Court and set the petitioner's husband at liberty.

For Petitioner : Mr.S.Prabudoss
For Respondents : Mr.M.Mohamed Riyaz
Additional Public Prosecutor
For Detenu : Mrs.A.Devi

O R D E R

(Order of the Court was made by C.T.SELVAM, J)

Petitioner is the wife of the detenu Yogendra Kashyap S/o.Ramlal Kashyap, who has been branded as "Immoral Traffic Offender" under the Tamil Nadu Act 14 of 1982 and detained under

orders of second respondent passed in Memo.No.24/BCDFGISSSV/2018 dated 17.01.2018. Such order is under challenge herein.

2. The detenu came to adverse notice in the following cases:

Sl.	Police Station and Crime No.	Section of law
1	Anti Vice Squad-II, Crime No.42/2016	4(1) & 5(1)a of ITP Act
2	Anti Vice Squad-I, Crime No.01/2018	4(1) & 5(1)a of ITP Act

The ground case has been registered against the detenu in Crime No.2 of 2018 on the file of Anti Vice Squad - I for offences u/s.3(2)a, 4(1), 5(1)a, 6(1) & 7(1) ITP Act.

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 to his wife through 'sms', which would vitiate the detention.

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

6. Under orders dated 07.08.2018, this Court has granted interim bail to the detenu for a period of two weeks. In the light of the fact that proper procedure has not been followed in intimating the arrest of the detenu to his wife, we have no hesitation in quashing the order of detention.

Accordingly, the Habeas Corpus Petition is allowed and the detention order passed by the second respondent against the detenu viz., Yogendra Kashyap S/o.Ramlal Kashyap, in Memo.No.24/BCDFGISSSV/2018 dated 17.01.2018 is quashed. It will now not be necessary for the detenu to surrender to the custody of Superintendent, Central Prison, Puzhal, Chennai, since the order of detention passed against him stands quashed.

Sd/-
Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

To

1.The Secretary,
Home, Prohibition and Excise Department,
Fort St.George, Chennai - 600 009.

2.The Commissioner of Police,
The Greater Chennai City,
Vepery, Chennai - 600 007.

3.The Public Prosecutor,
High Court, Madras.

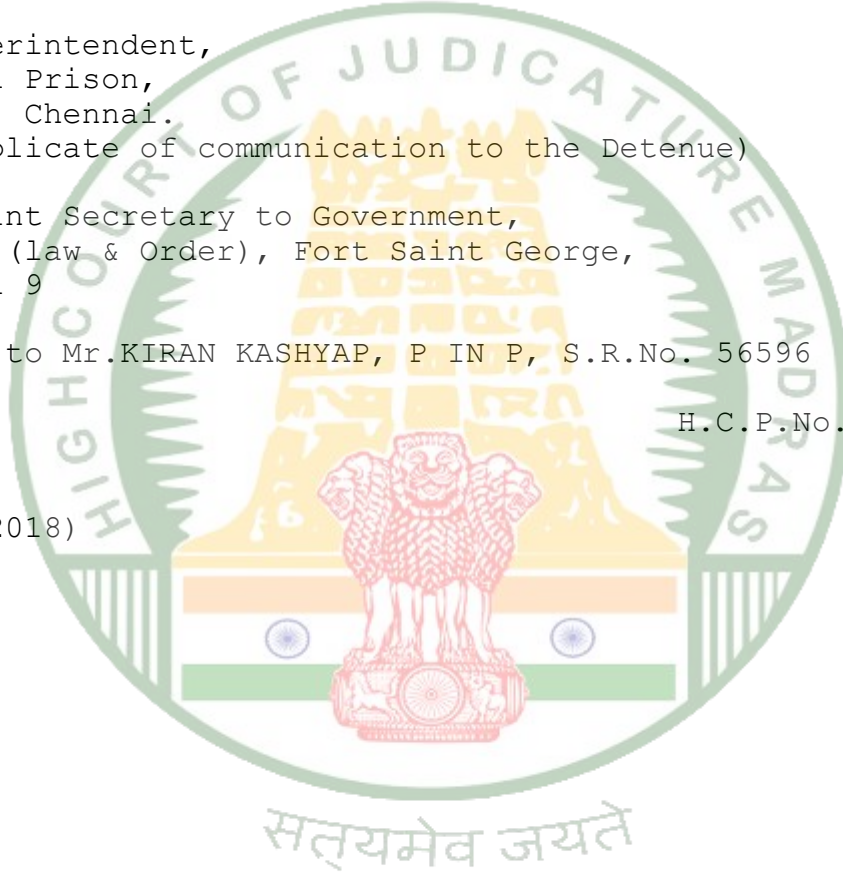
4.The Superintendent,
Central Prison,
Puzhal, Chennai.
(In duplicate of communication to the Detenue)

5. The Joint Secretary to Government,
Public (law & Order), Fort Saint George,
chennai 9

+1cc to Mr.KIRAN KASHYAP, P IN P, S.R.No. 56596

H.C.P.No.276 of 2018

RSK(CO)
TR(24/08/2018)



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