

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. 327 OF 2018

Jai @ Jaikumar

.. Petitioner

- Vs -

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

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

... 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 No.46/BCDFGISSSV dated 31.01.2018 on the file of the second respondent herein and set aside the same as illegal and direct the respondents to produce the detenu Jai @ Jaikumar S/o Paramasivam, aged about 28 years, now confined at Central Prison, Puzhal Chennai, Salem before this Hon'ble Court and set him at liberty.

For Petitioner : Mr.J.Stalin

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 31.01.20 on Jai @ Jaikumar S/o Paramasivam, aged about 28 years, 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 4,5,6,9,16,19,21,63,64,65,149,150,151 and 152 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 4,5,6,9,16,19,21,63,64,65,149,150,151 and 152 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, Jai @ Jaikumar S/o Paramasivam, aged about 28 years is ordered to be set at liberty forthwith, unless his custody is otherwise required in any other case.

Sd/-

Assistant Registrar(CS-IX)

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Sub Assistant Registrar

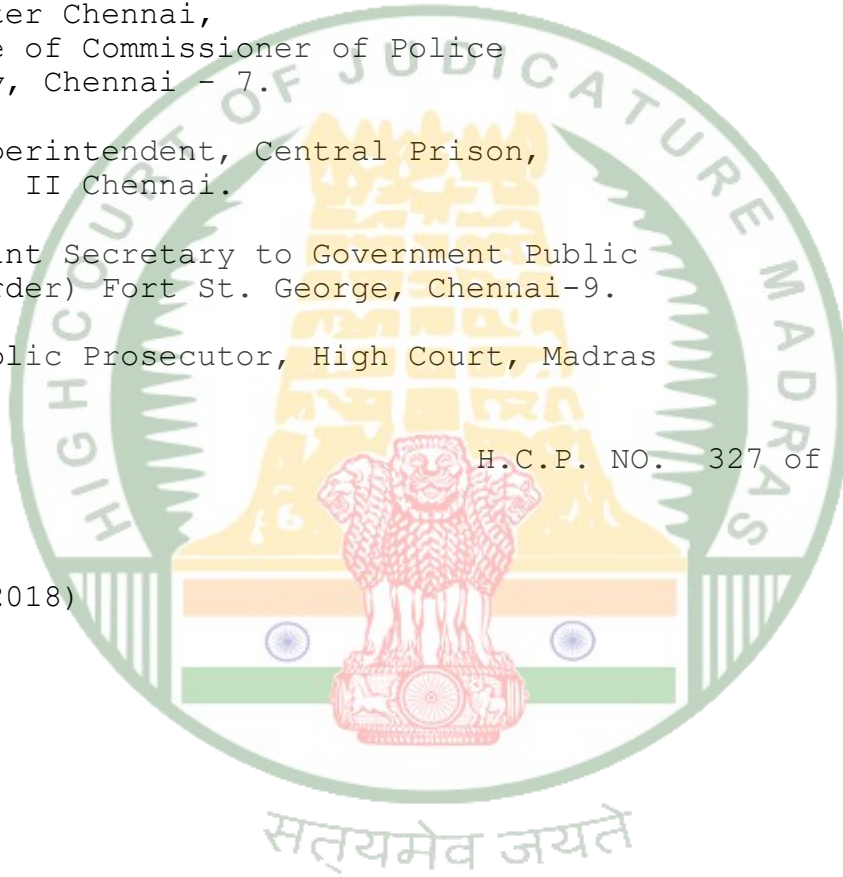
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To

1. The State of Tamil Nadu
The Chief Secretary to Govt.
Home, Prohibition & Excise Dept.
Secretariat
Chennai 600 009.
2. The Commissioner of Police
Greater Chennai,
Office of Commissioner of Police
Vepery, Chennai - 7.
3. The Superintendent, Central Prison,
Puzhal, II Chennai.
4. The Joint Secretary to Government Public
(Law & Order) Fort St. George, Chennai-9.
5. The Public Prosecutor, High Court, Madras

H.C.P. NO. 327 of 2018

EV(CO)
EU(12/09/2018)



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