

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 16.07.2018

CORAM

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

H.C.P. NO. 400 OF 2018

Nirmala

.. Petitioner

- Vs -

1. The Secretary to Govt.
Home, Prohibition & Excise Dept.
Secretariat, Fort St. George, Chennai - 9.
2. The Commissioner of Police/
Detaining Authority
City Police Office, Huzur Road
Coimbatore City, Coimbatore - 18.

.. Respondents

Petition filed for the issuance of a writ of habeas corpus to call for the records on the file of the 2nd respondent passed in Memo C. No.22/G/IS/2018 dated 10.2.2018 relating to the detention of R.Jai Anand @ Kozhi Anand, S/o Raju, aged 36 years, confined in Central Prison, Coimbatore, and direct the respondents to produce the body of the detenu, before this Hon'ble Court and set him at liberty.

For Petitioner : Mr. W.Camyles Gandhi

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

ORDER

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

The present habeas corpus petition has been preferred by the petitioner challenging the detention order dated 10.02.2018 passed by the 2nd respondent in and by which the 2nd respondent detained the detenu, R.Jai Anand @ Kozhi Anand, S/o Raju, 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. The main contention advanced by the learned counsel for the petitioner is that she herself is an aged lady with no support of her husband and not being able to maintain her life and is solely depending upon the earnings of the detenu. The petitioner has further submitted that the detenu is suffering from liver cancer and is in a serious condition and is under treatment at the Government Hospital and, therefore, there is no use in detaining him under the preventive detention laws and, therefore, he must be released.

3. This Court heard the learned Addl. Public Prosecutor appearing for the respondents on the above contention.

4. A perusal of the records, particularly page-198 of the typed set of documents, which is relied upon by the detaining authority to arrive at the subjective satisfaction of detaining the detenu reveal that the said document is illegible and is not in a readable position. Furnishing of legible copies of the documents relied upon by the detaining authority is a must 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 right to file an effective representation.

5. On this short ground itself the order of detention is liable to be quashed. However, coupled with the above furnishing of illegible documents relied on by the detaining authority, which vitiates the order of detention, the detenu is also suffering from liver cancer and there is no possibility of the detenu indulging in further activities, prejudicial to public interest and public order and, therefore, this Court is of the considered view that the order of detention is liable to be quashed.

6. Accordingly, the order of detention is quashed. The habeas corpus petition is allowed. The detenu, R.Jai Anand @ Kozhi Anand, S/o Raju, is ordered to be set at liberty forthwith, unless his custody is otherwise required in any other case.

Sd/-

Assistant Registrar (CS-IX)

//True Copy//

Sub Assistant Registrar

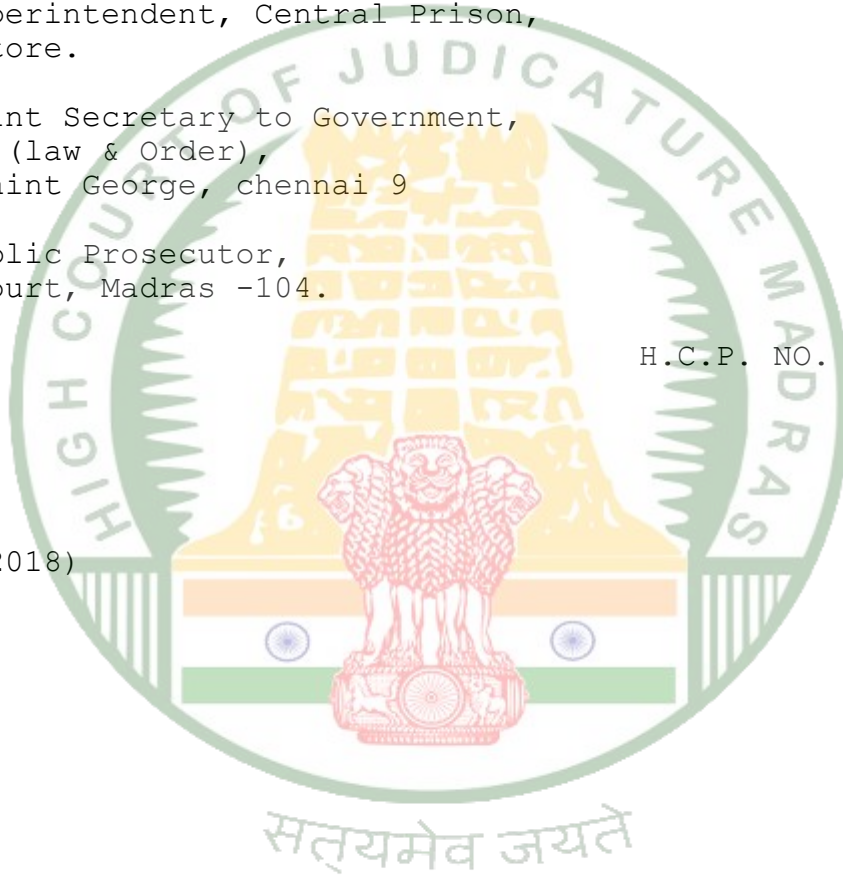
GLN

To

1. The Secretary to Govt.
Home, Prohibition & Excise Dept.
Secretariat, Fort St. George, Chennai - 9.
2. The Commissioner of Police/
Detaining Authority
City Police Office, Huzur Road
Coimbatore City, Coimbatore - 18.
3. The Superintendent, Central Prison,
Coimbatore.
4. The Joint Secretary to Government,
Public (law & Order),
Fort Saint George, Chennai 9
5. The Public Prosecutor,
High Court, Madras -104.

H.C.P. NO. 400 OF 2018

RSK(CO)
GN(18/09/2018)



WEB COPY