

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 24.07.2018

CORAM

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

H.C.P. NO. 484 OF 2018

R.Sumathi

.. Petitioner

- Vs -

1. The State of Tamil Nadu
rep. By the Secretary to Govt.
Home, Prohibition & Excise Dept.
Secretariat, Chennai 600 009.
 2. The District Collector
and District Magistrate
Erode District, Erode.
 3. The Superintendent of Prison
Central Prison, Coimbatore.
- .. Respondents

Petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of habeas corpus calling for the records pertaining to the order of detention passed by the 2nd respondent in Crl. M.P. No.02/Goonda/2018/C1 dated 30.01.2018 and set aside the same and direct the respondents to produce the detenu, Rangarajkumar, S/o Kannan, aged about 36 years, now confined in Central Prison, Coimbatore, before this Hon'ble Court and set him at liberty.

For Petitioner : Mr. P.Pugalenth

For Respondents: Mr. R.Prathap Kumar, APP

ORDER

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

The second respondent clamped an order of detention on 30.01.2018 as against Rangarajkumar, S/o Kannan, 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 the submission of the learned counsel for the petitioner that the copy that has been furnished to the petitioner at page-148 of the booklet is not the copy that has been relied upon in the order of detention. The defective supply of a copy, which has not been relied upon and the non-supply of the copy that has been relied upon by the detaining authority clearly exhibits non-application of mind on the part of the detaining authority to detain the detenu and, this vitiates the order of detention and, accordingly, the order of detention is liable to be set aside.

4. Learned Addl. Public Prosecutor appearing for the respondents does not dispute the same, but, however, submits that the said non-supply of the order copy does not vitiate the order of detention.

5. It is not in dispute that the copy at page 148 given in the typed set of document is not the copy that is relied on by the detaining authority. Further, the copy relied on by the detaining authority has not been furnished to the detenu. In such circumstances, the non-supply of the copy relied on by the detaining authority has prevented the detenu from making an effective representation and this clearly vitiates the order of detention.

6. On this short ground, the order of detention is quashed. The habeas corpus petition is allowed. The detenu, Rangarajkumar, S/o Kannan, is ordered to be set at liberty forthwith, unless his custody is otherwise required in any other case.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

GLN
To

1. The secretary to Govt.
Home, Prohibition & Excise Dept.
Secretariat, Chennai 600 009.

2. The District Collector
and District Magistrate
Erode District, Erode.

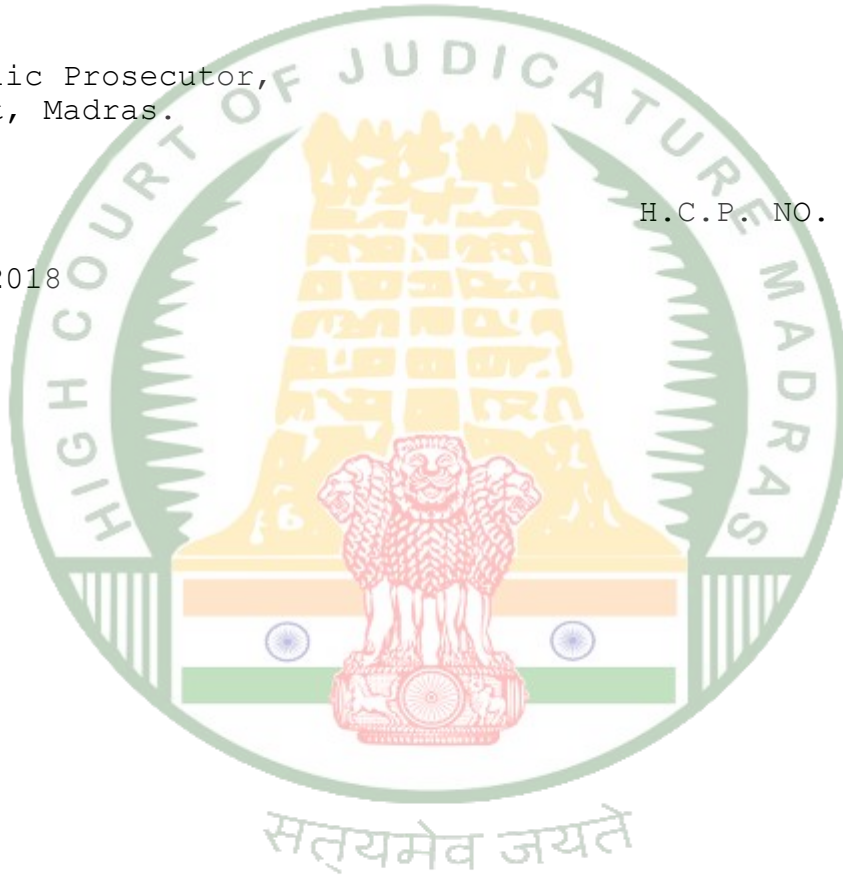
3. The Superintendent of Prison
Central Prison
Coimbatore.

4. The Joint Secretary to Government,
Public (Law & order)
Fort Saint George,
Chennai-9.

5. The Public Prosecutor,
High Court, Madras.

H.C.P. NO. 484 OF 2018

nr 26/10/2018



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