

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.08.2018

CORAM

THE HONOURABLE MR.JUSTICE C.T.SELVAM

and

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

H.C.P.No.571 of 2018

Dhanushkodi

.. Petitioner

Vs.

1.The Commissioner of Police,
Greater Chennai
Vepery, Chennai.

2.The Secretary to Government,
Home, Prohibition and Excise Dept.,
Fort St. George, Madras-600 009.

.. Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Habeas Corpus, to call for the records relating to the order of detention NO.71/BCDFGISSSV/2018 dated, 09/02/2018 passed by the 2nd respondent and to quash the same and also to direct the detenu THIRU.Ramesh, S/O.Rathinam, aged 36 years, who is presently detained in the Central Prison, Puzhal, Chennai to be produced before this Hon'ble court and set at liberty.

For Petitioner : Mr.S.V.D.Rajendra Prasad
For Respondents : Mr..M.Mohamed Riyaz,
Additional Public Prosecutor.

O R D E R

[Order of the Court was made by C.T.SELVAM, J.]

Challenge is made to the order of detention passed by the first respondent vide Proceedings in NO.71/BCDFGISSSV/2018 dated 11.01.2018, whereby the detenu, by name, Ramesh, son of Rathinam, aged about 36 years, was ordered to be detained under the provisions of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Slum-grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982) branding him as a "GOONDA".

2. The ground case has been registered against the detenu in Cr.No.2486 of 2017 on the file of Inspector of Police, P-6 Kodungaiyur Police Station for offences u/s 302 IPC. The detention order has been passed by first respondent in NO.71/BCDFGISSSV/2018.

3. Though many grounds have been raised in the petition, the learned counsel appearing for the petitioner, confines his argument only in respect of non-application of mind on the part of the detaining authority in passing the order of detention.

4. Learned counsel appearing for the petitioner submitted that the detenu was arrested in the ground case in Cr.No.2486/2017 on 05.01.2018; whereas, in passing the detention order, the detaining authority has informed the date of arrest as 05.01.2017 instead of 05.01.2018. This would create confusion in the mind of the detenu and deny him to give representation against the order of detention.

5. Per contra, the learned Additional Public Prosecutor would submit that the order of detention has been passed on cogent and sufficient materials and the same cannot be interfered with at the instance of the petitioner. Therefore, he submits that the Habeas Corpus Petition does not merit any consideration and the same is liable to be dismissed.

6. We have heard the learned counsel for both sides with regard to the facts.

7. A perusal of the detention order passed by the detaining authority would show that the detaining authority has informed the date of arrest as 05.01.2017 instead of 05.01.2018.

8. In view of the above submissions, this Court is of the view that the detention order is liable to be set aside.

9. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order is set aside. The detenu is directed to be released forthwith unless his presence is required in connection with any other case.

Sd/-

Assistant Registrar(CS-VIII)

//True copy//

Sub Assistant Registrar

kmi

To

1.The Commissioner of Police,
Greater Chennai
Vepery, Chennai.

2.The Secretary to Government,
Home, Prohibition and Excise Dept.,
Fort St. George, Madras-600 009.

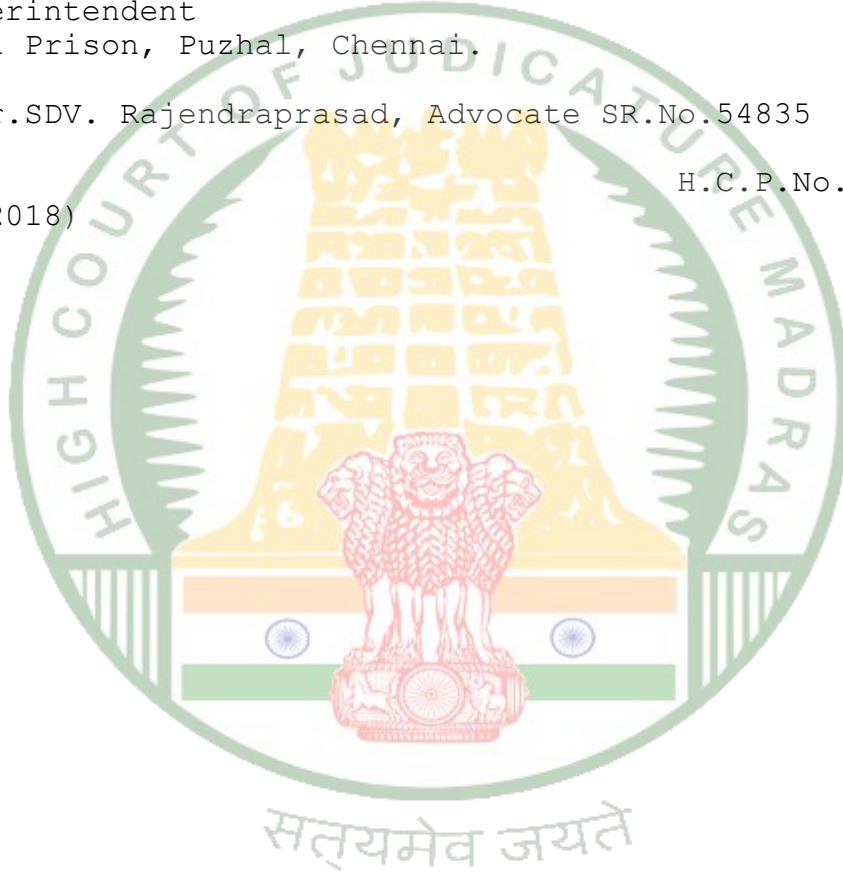
3.The Public Prosecutor
High Court, Madras.

4.The Superintendent
Central Prison, Puzhal, Chennai.

+1cc to Mr.SDV. Rajendraprasad, Advocate SR.No.54835

GM(03/09/2018)

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