

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.06.2019

Coram

The Hon'ble Mr. Justice M.M.SUNDRESH
and
The Hon'ble Mr. Justice M. NIRMAL KUMAR

H.C.P. No. 121 of 2019

S.Ewans

...Petitioner

-vs-

1.The District Collector and District Magistrate,
Tiruvannamalai District,
Tiruvannamalai.

2.The Secretary to the Government,
Government of Tamil Nadu, (Home)
Prohibition and Excise Department,
Fort St.George, chennai - 600 009.

3.The Superintendent,
Central Prison, Vellore,
Vellore.

...Respondents

Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, calling for the records of the first respondent herein concerned in D.O.No.54/2018-C2 dated 23.12.2018 setting aside the order of detention passed therein against the detenu herein by name Mr.Lubankumar, aged 62, S/o. John Iyyavupaul quashing the same and setting him at liberty now detained in Central Prison, Vellore.

For Petitioner: Mr.A.T.Nagendran

For Respondents: Mr.C.Iyyapparaj
Addl. Public Prosecutor

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O R D E R

[Order of the Court was made by M.M.SUNDRESH, J.]

The petitioner, who is the brother in law of the detenu, challenges the order of detention dated 23.12.2018 passed against the detenu Lubankumar branding him as a Sexual Offender.

2. Heard the learned counsel for the petitioner as well as the learned Additional Public Prosecutor for the respondents.

3. The learned counsel for the petitioner assailed the order of detention on the ground of non-supply of judicial order extending the remand of the detenu and it was only the proforma of the jail authorities which was furnished to the detenu which shows the extension of remand of the detenu and hence, the detenu was deprived of his opportunity to make effective representation to the Government opposing the order of detention, and accordingly, the order of detention is liable to be quashed.

4. The learned Additional Public Prosecutor appearing for the detaining authority also admits that only the proforma prepared by the sponsoring authority for extension of remand was furnished to the detenu and not the judicial order passed by the learned Magistrate.

5. On perusal of the paper book furnished to the detenu, we could only find the proforma furnished by the police/jail authority showing the extension of remand till 04.01.2019 and we find no such order passed by the learned Magistrate extending the remand of the detenu in the booklet furnished to the detenu, which, in our considered opinion, would deprive of the opportunity of the detenu to make effective representation. Therefore, we are of the view that it is a fit case to set aside the impugned order of detention on the ground of non-supply of judicial order extending the remand of the detenu.

6. Accordingly the impugned order of detention is set aside. The detenu is directed to be set at liberty forthwith unless his presence is required in connection with any other case. The Habeas Corpus Petition is allowed.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To

1.The District Collector and District Magistrate,
Tiruvannamalai District,
Tiruvannamalai.

2.The Secretary to the Government,
Government of Tamil Nadu, (Home)
Prohibition and Excise Department,
Fort St.George, chennai - 600 009.

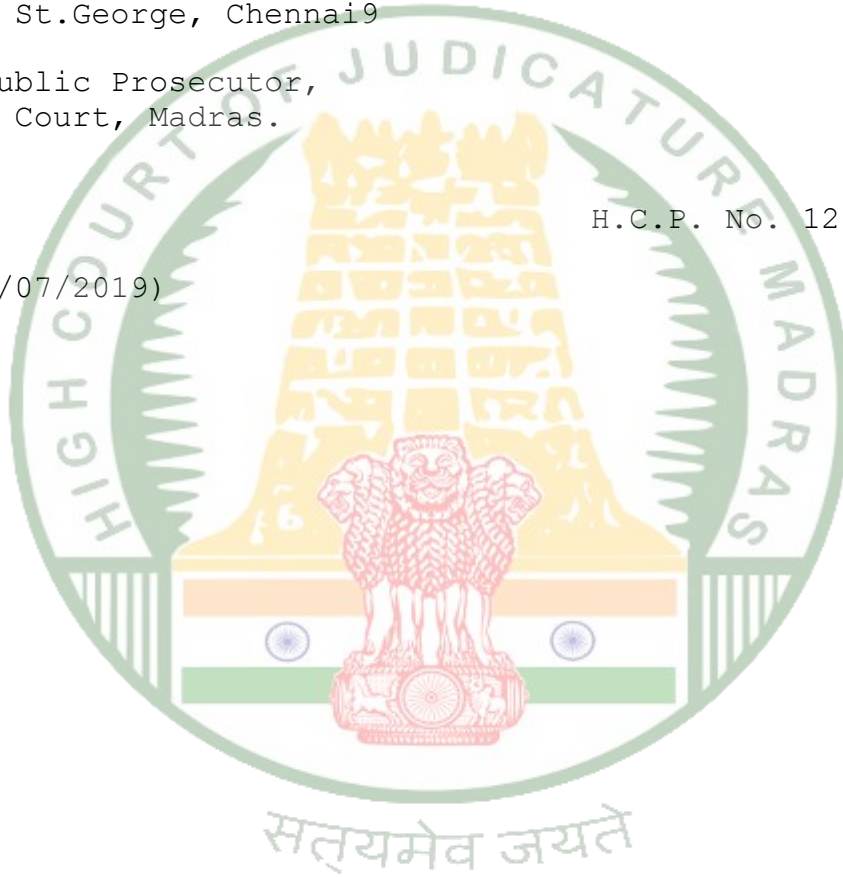
3.The Superintendent,
Central Prison, Vellore,
Vellore.

4.The Joint secretary to government
Public Law and order
Fort St.George, Chennai9

5.The Public Prosecutor,
High Court, Madras.

H.C.P. No. 121 of 2019

A.SK(11/07/2019)



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