

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.06.2019

Coram

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

H.C.P. No. 597 of 2019

Rani

... Petitioner

-vs-

1.State of Tamil Nadu, rep by
he Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai - 600 009.

2.The District Collector and District Magistrate,
Dharmapuri District ... Respondents

Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus to call for the records relating to the detention order in S.C.No.05/2018 dated 24.12.2018 passed by the second respondent under the Tamil Nadu Act 14 of 1982 and set aside the same and direct the respondent to produce the petitioner's son Moorthy, S/o Selvam, the detenu, now confined in Central Prison, Salem before this Court and set the detenu at liberty.

For petitioner : Mr.C. Mohammed Aseef
For Respondents: Mr.C. Iyyappa Raj
Addl. Public Prosecutor

ORDER

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

The petitioner, who is the mother of the detenu, aged about 40 years has come up with this habeas corpus petition, challenging the detention order passed against her son viz., Moorthy, S/o Selvam, age 40 years vide S.C.No.05/2018 dated 24.12.2018 branding him as a "Goonda" under 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].

2. We have heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the State and we have also perused the records carefully.

3. Though, several grounds were raised in the petition, the learned counsel appearing for the petitioner would mainly focus on the ground only in respect of non-application of mind on the part of the detaining authority in passing the order of detention.

4. The sponsoring authority has satisfied that the detenu is habitually committing crimes and also acted in a manner prejudicial to the maintenance of public order and as such he is a Goonda, as contemplated under Section 2(f) of the Tamil Nadu Act 14 of 1982 and hence, sponsored the detenu before the Detaining Authority for passing an order of detention against him. The Detaining Authority, on consideration of the materials placed before him, passed the order of detention against the detenu. Aggrieved of the same, the present Habeas Corpus Petition is filed.

5. The learned counsel for the petitioner submitted that in the ground case, the offence registered against the detenu is under Sec.302 r/w 201 IPC Hence, the learned counsel for the petitioner submitted that since the dispute arose between the individuals, it would not in any way be prejudicial to the maintenance of public order, and hence the order of detention is liable to be set aside.

6. In the present case, as rightly pointed out by the learned counsel for the petitioner, since the dispute arose between the individuals and there is no disturbance to the public peace, the order under challenge is liable to be set aside and it is accordingly the detention order passed by the second respondent in S.C.No.05/2018 dated 24.12.2018 is set aside. The habeas corpus petition is allowed and the detenu is directed to be set at liberty forthwith, unless, his presence is required in connection with any other case.

s/d-
Assistant Registrar(CS VII)

True Copy

Sub-Assistant Registrar

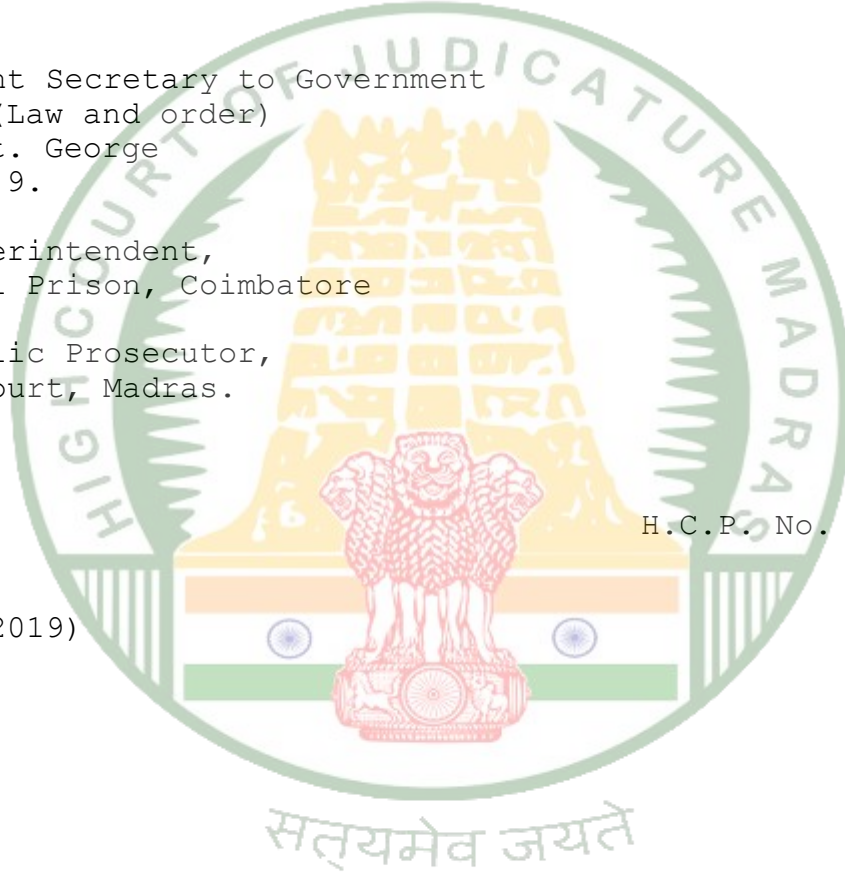
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To

- 1.State of Tamil Nadu, rep by
he Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai - 600 009.
- 2.The District Collector and District Magistrate,
Dharmapuri District
3. The Superintendent of Prison,
Central Prison,
Salem
- 4.The Joint Secretary to Government
Public (Law and order)
Fort. St. George
Chennai 9.
- 5.The Superintendent,
Central Prison, Coimbatore
- 6.The Public Prosecutor,
High Court, Madras.

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RR(CO)
SP(12/07/2019)



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