

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.07.2019

Coram

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

H.C.P. No. 731 of 2019

Nelavathi

... Petitioner

-vs-

1.State of Tamil Nadu

Rep. By its Secretary,
Home, Prohibition and Excise Department,
Secretariat,
Fort St.George, Chennai - 600 009.

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

3.The Inspector of Police,
Chidambaram Town Police Station,
Chidambaram, Cuddalore District.

... Respondents

Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus calling for the records of the detention order dated 02.04.2019 in detention order No.C3/D.O/23/2019, on the file of the 2nd respondent herein, quash the same and direct the respondents herein to produce the body of the detenu Suresh, S/o.Kaliyaperumal, Hindu, aged about 32 years who is now confined in Central Prison, Cuddalore before this Court and set him at liberty.

For Petitioner : Mr.R.Thamaraiselvan

For Respondents : Mr.C.Iyyappa Raj
Addl. Public Prosecutor

ORDER

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

The petitioner is the wife of the detenu, Suresh, S/o.Kaliyaperumal, Hindu, aged about 32 years. The detenu has been detained by the second respondent by his order in No.C3/D.O/23/2019, dated 02.04.2019, holding to be a "Goonda", as contemplated under Section 2(f) of Tamil Nadu Act 14 of 1982.

The said order is under challenge in this Habeas Corpus Petition.

2. We have heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondents. We have also perused the records produced by the Detaining Authority.

3. The sponsoring authority has satisfied that the detenu has 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.

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

5. The learned counsel for the petitioner submitted that pending trial in which the detenu has been charged for the offence under Section 302 IPC, the detenu has involved in the ground case which has been registered under Sections 341, 294 (b) and 307 IPC. Learned counsel further submitted that due to previous enmity, the occurrence took place and 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. On perusal of the materials available on record and after going through the grounds of detention, we find that the ground case relates to individual act and there may be violation of only law and order and not public order. Any disorderly behaviour of a person in the public or commission of a criminal offence is bound, to some extent, affect the peace prevailing in the locality and it may also affect law and order, but the same need not affect maintenance of public order. Hence, the detention order is liable to be set aside.

7. In the result, the Habeas Corpus Petition is allowed and the order of detention in No.C3/D.O/23/2019, dated 02.04.2019 passed by the second respondent is set aside. The detenu, Suresh, S/o.Kaliyaperumal, Hindu, aged about 32 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-

Assistant Registrar

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Sub Assistant Registrar

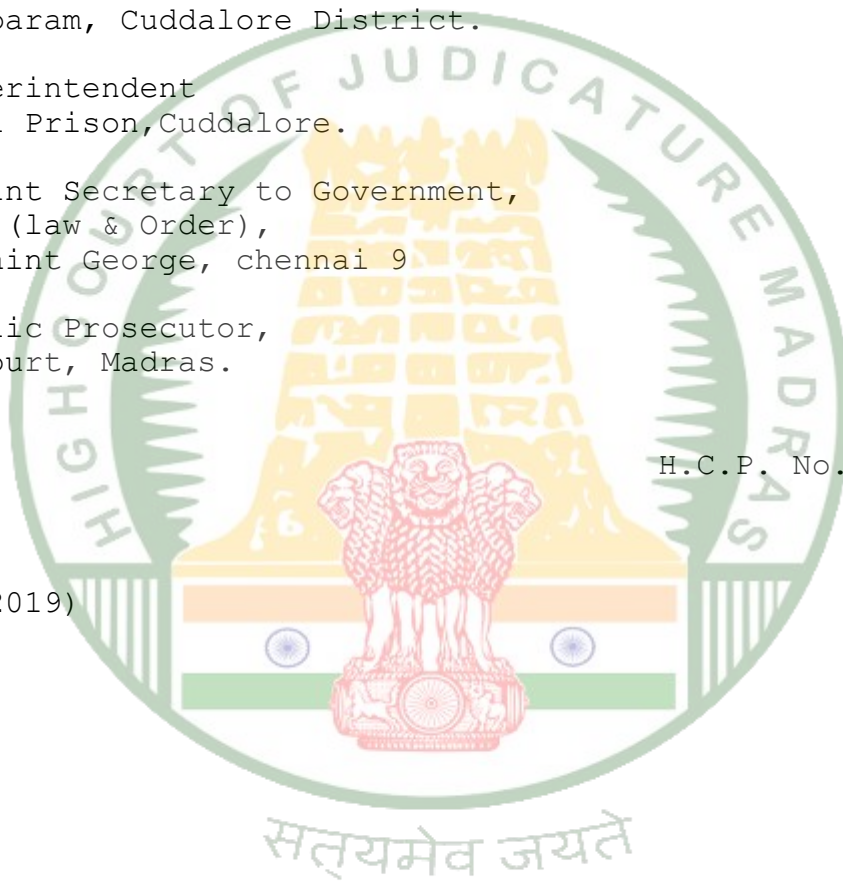
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To

- 1.The Secretary to Govt,
Home, Prohibition and Excise Department,
Secretariat,
Fort St.George,Chennai - 600 009.
- 2.The District Collector and District Magistrate,
Cuddalore, Cuddalore District.
- 3.The Inspector of Police,
Chidambaram Town Police Station,
Chidambaram, Cuddalore District.
- 4.The Superintendent
Central Prison,Cuddalore.
5. The Joint Secretary to Government,
Public (law & Order),
Fort Saint George, chennai 9
- 6.The Public Prosecutor,
High Court, Madras.

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SPD(CO)
GN(02/08/2019)



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