

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.06.2019

Coram

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

H.C.P. No. 765 of 2019

Chella

... Petitioner

-vs-

1. The Secretary to Govt,
Home, Prohibition and Excise Department,
Secretariat,
Fort St.George, Chennai - 600 009.
2. The District Collector and District Magistrate,
Collector's Office, Coimbatore - 18. ... Respondents

Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus to call for the entire records relating to the petitioner's brother detention under Tamil Nadu Act 14 of 1982 vide detention order, dated 15.12.2018 on the file of the second respondent herein made in proceedings Memo Cr.M.P.No.27/G/2018/E1, quash the same as illegal and consequently direct the respondents herein to produce the petitioner's brother namely Jegan @ Jegadheesan @ Moped Jegan, S/o. Sindhan @ Nachimuthu, aged 41 years before this Court and set the petitioner's brother at liberty.

For Petitioner : Mr.W.Camyles Gandhi

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 sister of the detenu, Jegan @ Jegadheesan @ Moped Jegan, S/o. Sindhan @ Nachimuthu, aged 41 years. The detenu has been detained by the second respondent by his order in Cr.M.P.No.27/G/2018/E1, dated 15.12.2018, 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.Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondents.

3.Among other grounds, the detention order is mainly attacked on the ground that there is a delay in passing the order of detention. Learned counsel for the petitioner strongly contended that though the occurrence in the ground case took place on 16.10.2018 and the detenu was arrested on the same day, the detention order was passed only on 15.12.2018 i.e., after a considerable delay of two months. Therefore, the detention order has to be set aside.

4.As seen from the grounds of detention, it is clear that though the detenu was arrested in respect of the ground case on 16.10.2018, the order of detention came to be passed only on 15.12.2018 and hence, there is an abnormal delay in passing the order of Detention, which caused prejudice to the interest of the detenu.

5.We have gone through the entire materials placed on record. There is no satisfactory explanation offered by the Detaining Authority for the delay in passing the order of detention. Hence the impugned order of detention is liable to be set aside.

6. In the result, the Habeas Corpus Petition is allowed and the order of detention in Cr.M.P.No.27/G/2018/E1, dated 15.12.2018, passed by the second respondent is set aside. The detenu, namely, Jegan @ Jegadheesan @ Moped Jegan, S/o. Sindhan @ Nachimuthu, aged 41 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-
Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

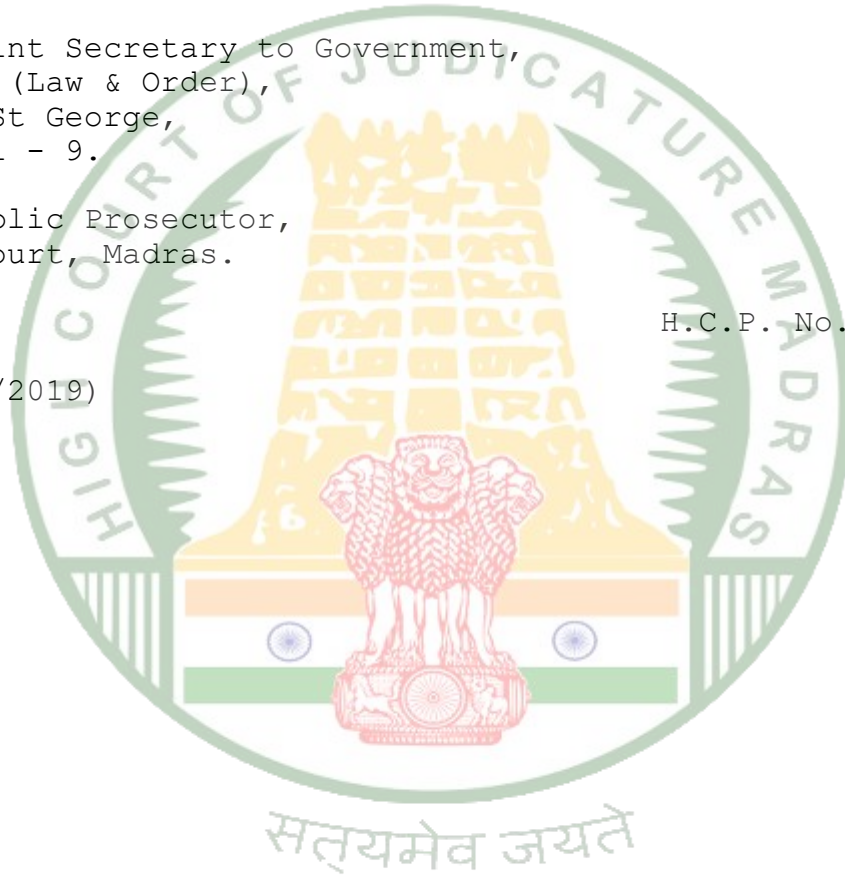
mmi/ssm

To:

1. The Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.
2. The District Collector and District Magistrate,
Collector's Office, Coimbatore - 18.
3. The Superintendent
Central Prison, Coimbatore.
4. The Joint Secretary to Government,
Public (Law & Order),
Fort. St George,
Chennai - 9.
5. The Public Prosecutor,
High Court, Madras.

H.C.P. No.765 of 2019

SPD(CO)
SSM(22/07/2019)



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