

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.08.2019

Coram

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

H.C.P. No. 1169 of 2019

A.Priya ... Petitioner

-vs-

- 1.The State rep. by
The District Collector cum District
Magistrate, Villupuram District,
Villupuram.
- 2.The Secretary to Government,
Government of Tamil Nadu,
Home, Prohibition and Excise (IX)
Department, Secretariat,
St. George Fort, Chennai - 9. Respondents

Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus to call for the records of the first respondent in T.P.D.A.3273 dated 29.04.2019 with reference to Detention Order No.RC C2/10674/2019 dated 28.04.2019 setting aside the order of detention passed therein and directing the respondent to produce the detinue namely Ashok Kumar @ Ashok @ Ashokan, son of Kuppusamy, before this Court, now detained in Central Jail at Cuddalore and setting him at liberty.

For Petitioner : Mr.V.Gunasekar

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. The detenu has been branded as a "Bootlegger" as contemplated under Tamil Nadu Act 14 of 1982 and detained under the order of the first respondent passed in R.C.No. C2/10674/2019 dated 28.04.2019. 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.

3.Amidst several grounds raised, learned counsel appearing for the petitioner mainly focused his argument on the ground that there is variation in respect of the intimation of arrest of the detenu to the family member between the arrest card and the remand order. Therefore, the subjective satisfaction arrived by the detaining authority is not well founded.

4.A perusal of the booklet would show that in the arrest card found at Page No.22 of the booklet furnished to the detenu, it has been stated that the arrest of the detenu has been intimated to the father of the detenu whereas in the remand report found at Page No.28 of the booklet, it has been stated that the arrest of the detenu has been intimated to the relative of the detenu. The said variation between the arrest card and the remand report prevented the detenu from making an effective representation.

5.When there is a variation in narration of facts, opportunity of clear understanding and making effective representation on such understanding is lost and the detenu is deprived thereof. Therefore, on this sole ground, the impugned order of detention is liable to be quashed.

6.In the result, this habeas corpus petition is allowed and the impugned detention order made in R.C.No.C2/10674/2019 dated 28.04.2019, is set aside. The detenu - Ashok Kumar @ Ashok @ Ashokan, son of Kuppusamy, is directed to be set at liberty forthwith, unless his custody is required in connection with any other case.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

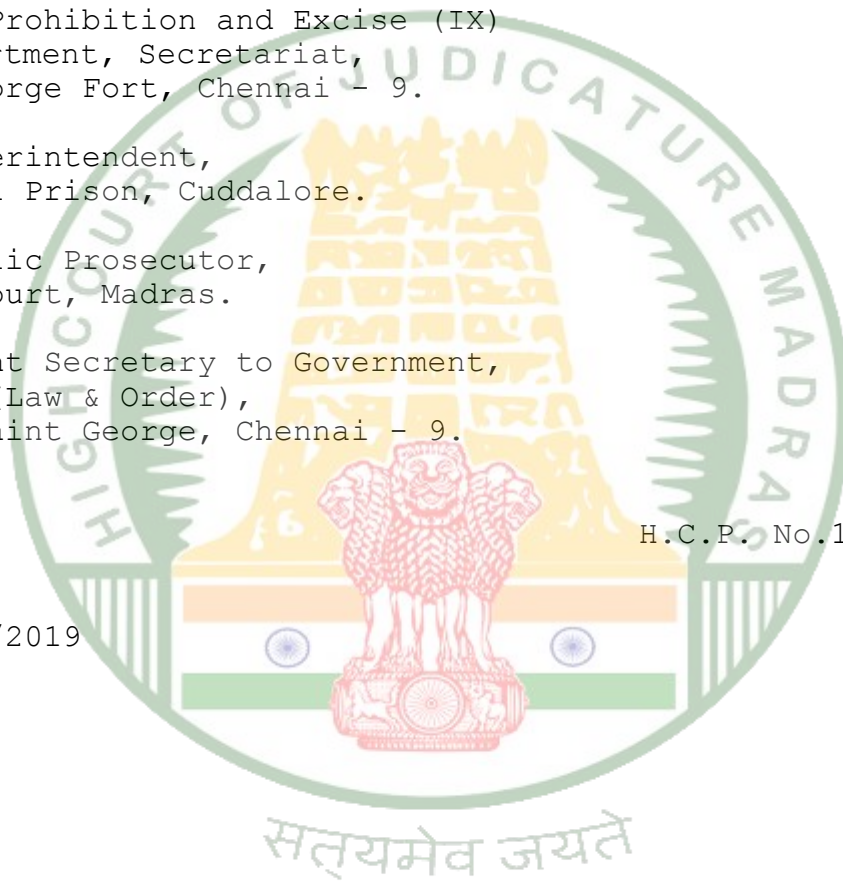
mmi/ssm

To

- 1.The District Collector cum District Magistrate, Villupuram District, Villupuram.
- 2.The Secretary to Government, Government of Tamil Nadu, Home, Prohibition and Excise (IX) Department, Secretariat, St. George Fort, Chennai - 9.
- 3.The Superintendent, Central Prison, Cuddalore.
- 4.The Public Prosecutor, High Court, Madras.
- 5.The Joint Secretary to Government, Public(Law & Order), Fort Saint George, Chennai - 9.

H.C.P. No.1169 of 2019

nrl[col]
srg 26/09/2019



WEB COPY