

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.09.2019

Coram

The Hon'ble Mr. Justice M.M.SUNDRESH
and
The Hon'ble Mr. Justice R. PONGIAPPAN

H.C.P. No. 1313 of 2019

Amuthavalli

... Petitioner

-vs-

1.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai - 600 009.

2.The Commissioner of Police,
Greater Chennai Police,
Office of the Commissioner of Police,
(Goonda Section), Vepery,
Chennai - 600 007.

... Respondents

Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus calling for the records pertaining to the order of detention dated passed by the second respondent in Order No. 299/BCDFGISSSV/2019 dated 29.05.2019 set aside the same, direct to produce the detenu Thiru. Bakkiyaraj, S/o. Mr. Babu, aged about 39 years, and presently detained in Central Prison at Puzhal, Chennai before this Court and set him at liberty.

For Petitioner : Mr.R. Ganesh Kumar

For Respondents : Mr.R.Prathap Kumar
Addl. Public Prosecutor

ORDER

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

The petitioner is the sister of the detenu, Bakkiyaraj, S/o. Mr. Babu, aged about 39 years. The detenu has been detained by the second respondent by his order in No. 299/BCDFGISSSV/2019 dated 29.05.2019 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. Though learned counsel for the petitioner has raised several other grounds to assail the order of detention, he has mainly focused his argument on the ground that the detaining authority, while detaining the detenu, has not furnished the legible copy of the document relied on by him. This deprived the detenu from making effective representation. Therefore, on this sole ground, the detention order is liable to be quashed.

4. On consideration of the submissions made on either side and upon perusal of the documents available on record, it is clear that the detaining authority, by providing illegible copy of the document, has taken away the rights of detenu to effectively defend himself against his detention. Thus the impugned detention order is liable to be set aside on this ground.

5. In the result, the Habeas Corpus Petition is allowed and the order of detention in No. 299/BCDFGISSSV/2019 dated 29.05.2019, passed by the second respondent is set aside. The detenu, Bakkiyaraj, S/o. Mr. Babu, aged about 39 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

mmi/ssm

To

1.The Secretary,
Home, Prohibition and Excise Department,
Secretariat,
Chennai - 600 009.

2.The Commissioner of Police,
Greater Chennai Police,
Office of the Commissioner of Police,
(Goonda Section), Vepery,
Chennai - 600 007.

3.The Superintendent,
Central Prison, Puzhal, Chennai.

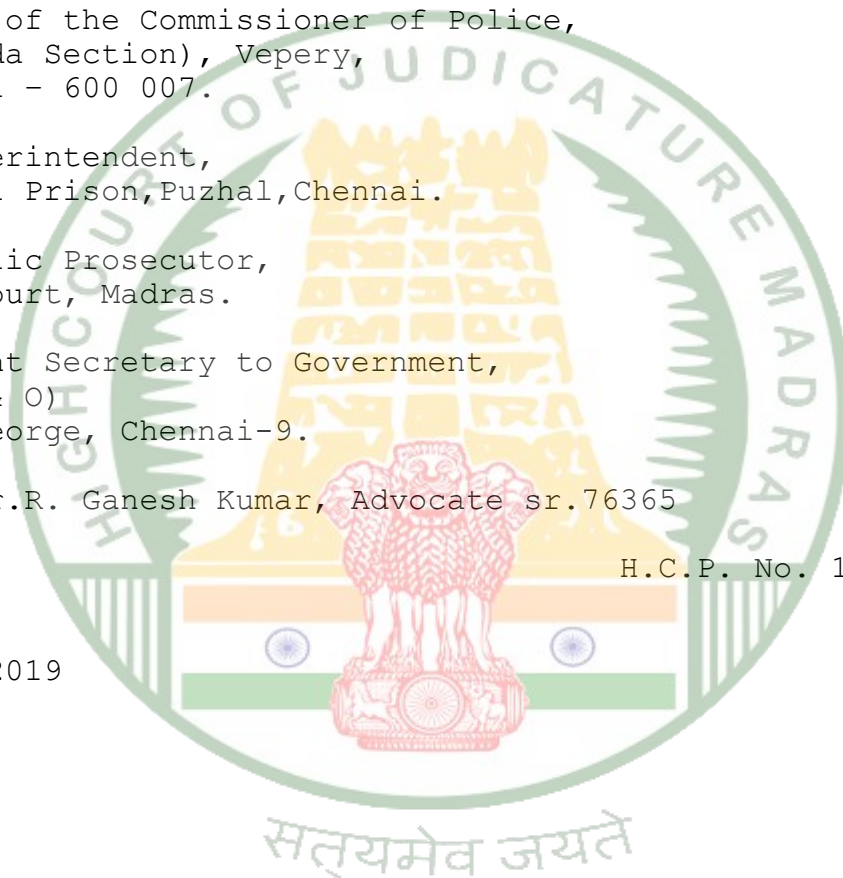
4.The Public Prosecutor,
High Court, Madras.

5.The Joint Secretary to Government,
Public(L & O)
Fort st.George, Chennai-9.

+1cc to Mr.R. Ganesh Kumar, Advocate sr.76365

H.C.P. No. 1313 of 2019

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