

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.09.2019

CORAM

THE HON'BLE MR. JUSTICE M.M.SUNDRESH
AND
THE HON'BLE MR. JUSTICE RMT. TEEKAA RAMAN

H.C.P. No.1402 of 2019

Lokeshwari

... Petitioner

-vs-

1.The Secretary to Government
of Tamil Nadu,
Home, Prohibition and Excise Department,
Secretariat,
Fort St.George, Chennai - 600 009

2.The Commissioner of Police,
Greater Chennai,
Vepery, Chennai - 07.

... Respondents

Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus calling for the records in Memo No.340/BCDFGISSSV/2019 on the file of the second respondent, quash the detention order dated 20.06.2019 and direct the respondents to produce the detenu Nithiyanandhan, son of Madhan detained at Central Prison, Puzhal, under the Tamil Nadu Act 14 of 1982 before this Court and set him at liberty.

For Petitioner : Mr.P.K.Ganesh

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 wife of the detenu Nithiyanandhan, son of Madhan, male, aged about 22 years. The detenu has been detained by the second respondent by his order in No.340/BCDFGISSSV/2019 dated 20.06.2019 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 and we have also perused the records carefully.

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 and the remand order has not been properly translated in vernacular language. 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, especially Page Nos. 147 and 150 of the booklet, 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. Apart from that, the remand order has not been properly translated in vernacular language. 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.340/BCDFGISSSV/2019 dated 20.06.2019 passed by the second respondent is set aside. The detenu, namely, Nithiyanandhan, son of Madhan, male, aged about 22 years, is directed to be released forthwith unless his detention is required in connection with any other case.

mmi/ssm

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

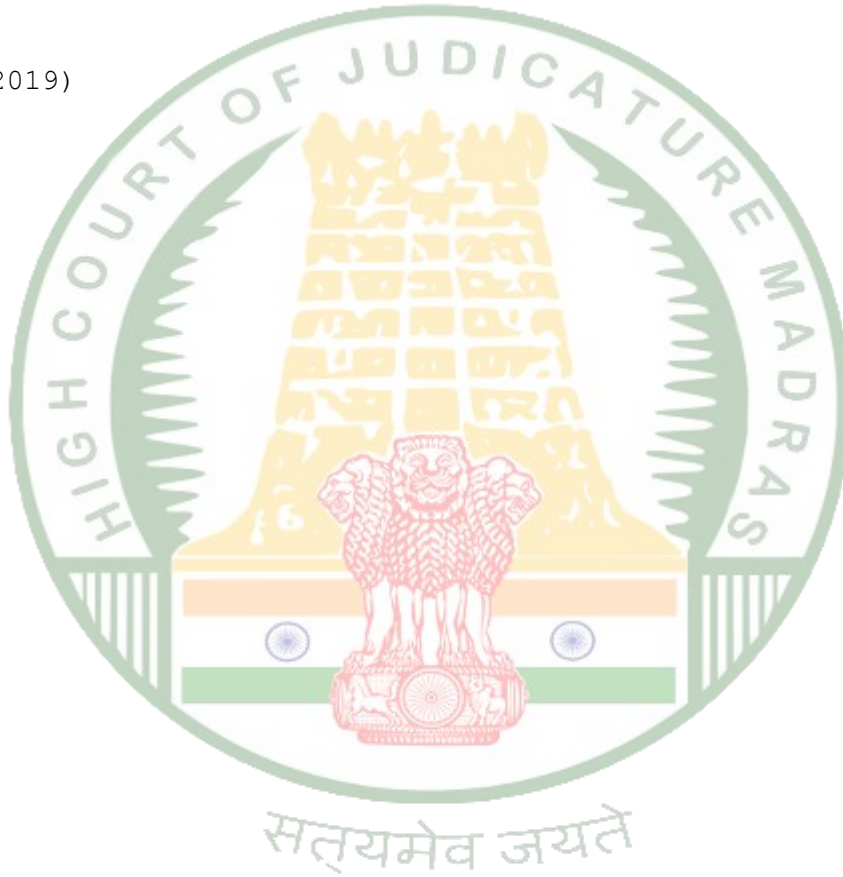
1. The Secretary to Government
Home, Prohibition and Excise Department,
Secretariat,
Fort St. George, Chennai - 600 009

2. The Commissioner of Police,
Greater Chennai, Vepery, Chennai - 07.

3. The Superintendent,
Central Prison, Puzhal, Chennai.
4. The Joint Secretary to Government,
Public (Law & Order),
Fort St. George, Chennai -600 009.
5. The Public Prosecutor,
High Court, Madras.

H.C.P. No. 1402 of 2019

Kak(07/11/2019)



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