

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.10.2019

Coram

The Hon'ble Mr. Justice M.M.SUNDRESH
and
The Hon'ble Mr. Justice RMT. TEEKAA RAMAN

H.C.P. No. 1556 of 2019

S.K.KandhakumarPetitioner/Son of detenue

-vs-

- 1.The State of Tamil Nadu
Rep. by its Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat,
Fort St.George, Chennai - 9.
- 2.The District Magistrate and District Collector,
Namakkal District. Respondents

Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus directing the respondents to produce the body of the petitioner's father namely Senthilkumar, S/o.Perumal, who is detained in Central Prison, Salem before this Court and set him at liberty forthwith by calling for the records pursuant to the detention order made in C.M.P.No.14/Sexual Offender/2019/M1 dated 29.06.2019 on the file of the second respondent and quash the same.

For Petitioner : Mr.R.Nalliyappan

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 son of the detenu - Senthilkumar, S/o.Perumal, aged about 40 years. The detenu has been detained by the second respondent by his order in C.M.P.No.14/Sexual Offender/2019/M1 dated 29.06.2019, holding him to be a "Sexual Offender", as contemplated under Section 2(ggg) 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 perused the materials available on record.

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 appearing for the petitioner strongly contended that though the detenu was arrested on 08.04.2019, the detention order was passed only on 29.06.2019 i.e., after a considerable delay of more than 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 on 08.04.2019, the order of detention came to be passed only on 29.06.2019 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 C.M.P.No.14/Sexual Offender/2019/M1 dated 29.06.2019, passed by the second respondent is set aside. The detenu, namely, Senthilkumar, S/o.Perumal, aged about 40 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-
Assistant Registrar(CO)

//True copy//

Sub Assistant Registrar

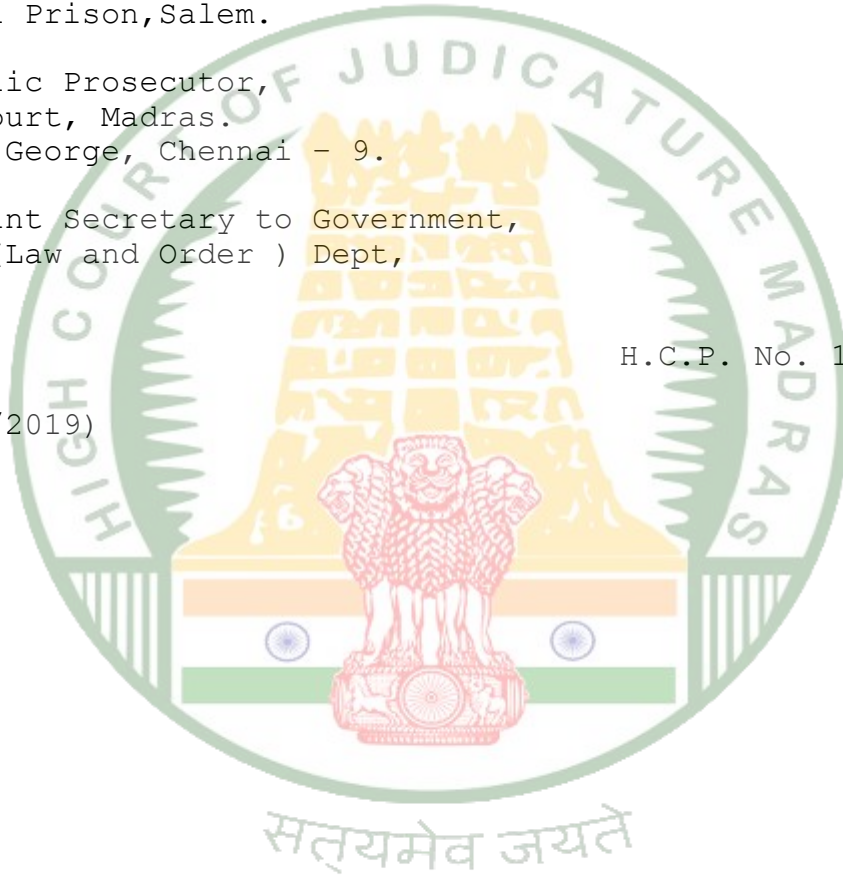
mmi/ssm

To

- 1.The Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat,
Fort St.George, Chennai - 9.
- 2.The District Magistrate and District Collector,
Namakkal District.
- 3.The Superintendent,
Central Prison,Salem.
- 4.The Public Prosecutor,
High Court, Madras.
Fort St.George, Chennai - 9.
5. The Joint Secretary to Government,
Public (Law and Order) Dept,

MR(CO)
GMY(15/11/2019)

H.C.P. No. 1556 of 2019



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