

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.09.2019

Coram

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

H.C.P. No.1780 of 2019

G.Aswini ... Petitioner/Wife of the detenu

-vs-

- 1.The Principal Secretary,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.
- 2.The District Collector and District Magistrate
of Cuddalore District,
Cuddalore District, Cuddalore. ... Respondents

Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus calling for the records of the second respondent in Memo No.C3/D.O./07/2019 dated 05.02.2019 and set aside the same and direct the respondents to produce the body of the detenu Guna @ Gunalan, age 28 years, now confined in Central Prison, Cuddalore before this Court and set him at liberty.

For Petitioner : Mr.A.Arasu Ganesan

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 Guna @ Gunalan, S/o. Ezhildoss, male, aged 28 years. The detenu has been

detained by the second respondent by his order in Memo No.C3/D.O./07/2019 dated 05.02.2019, 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 No.186 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 Memo No.C3/D.O./07/2019 dated 05.02.2019 passed by the second respondent is set aside. The detenu, namely, Guna @ Gunalan, S/o. Ezhildoss, male, aged 28 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

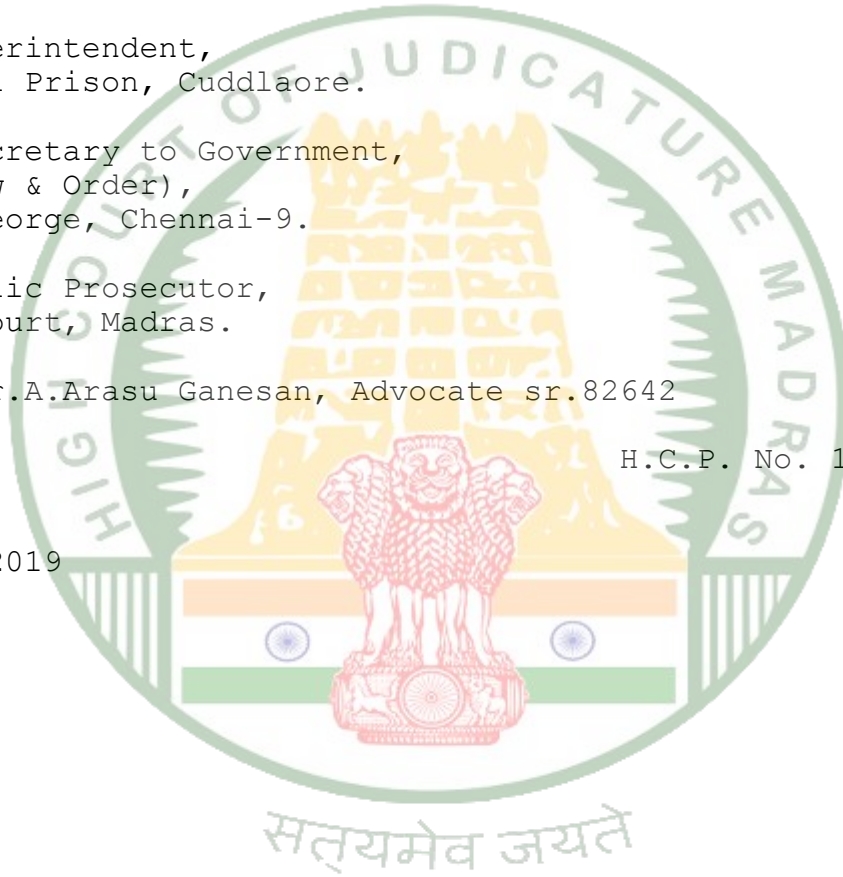
To

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

+1cc to Mr.A.Arasu Ganesan, Advocate sr.82642

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rji(co)
nr 12/11/2019



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