

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.12.2019

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH
and
THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

H.C.P.No.2053 of 2019

M.Kanaga
W/o.K.Manikandan

... Petitioner

Vs

- 1.Government of Tamil Nadu
represented by its Additional Chief Secretary,
Prohibition and Excise Department,
Fort St.George, Chennai - 600009.
- 2.The District Collector and District Magistrate,
Office of the District Collector and District
Magistrate,
Ariyalur District, Ariyalur.
- 3.The Superintendent of Central Prison,
Tiruchirapalli. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus calling for the records relating to the proceedings of second respondent dated 04.08.2019 vide Cr.M.P.No.17/2019 against the detenu viz., Manikandan S/o.Kaliyamoorthy, aged 27 years and quash the same and consequently, direct the respondents herein to produce the detenu, who has been now detained under Act 14 of 1982, at Central Prison, Tiruchirapalli, before this Court and set him at liberty.

For Petitioner : Mr.K.Chandramohan

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

O R D E R

[Order of this Court was made by R.SUBBIAH, J]

Petitioner is the wife of the detenu viz., Manikandan S/o.Kaliyamoorthy, aged 27 years, who has been branded as a 'Goonda' under the Tamil Nadu Act 14 of 1982 and detained under order of second respondent passed in Cr.M.P.No.17/2019 dated 04.08.2019.

2. The detenu came to adverse notice in Crime No.100 of 2019 on the file of Keelapalur Police Station for offences under Sections 147, 148, 294(b), 363, 324, 506(ii), 448 and 427 IPC. The alleged ground case has been registered against the detenu on 07.07.2019 in Crime No.143 of 2019 on the file of Keelapalur Police Station for offences u/s.147, 148, 341, 302 and 506(ii) IPC. Aggrieved by the order of detention, the present writ petition has been filed.

3. Heard learned counsel for petitioner and learned Additional Public Prosecutor appearing for respondents. Perused the materials on record.

4. Learned counsel for petitioner submits that despite the admitted position that the detenu has not filed any bail application in the ground case, the detaining authority has informed a real possibility of his coming out on bail by filing a bail application since in a similar case bail was granted by learned Principal District and Sessions Judge, Ariyalur, in Cr.M.P.No.68 of 2018 in respect of Crime No.230 of 2017 on the file of Vikkiramangalam Police Station, for offences u/s.307, 302 IPC altered to 302 (Double Death) IPC. Learned counsel submits that in the case cited as similar, the offences are different from that of the offences in the ground case. The non-consideration of such aspect reflects non-application of mind.

5. We have heard learned Additional Public Prosecutor on the above submissions.

6. As rightly submitted by learned counsel for petitioner, the offences alleged in the similar case, relied on by the detaining authority in arriving at a subjective satisfaction, are different from that of the offences alleged in the ground case. Hence, we find that the order of detention suffers from non application of mind.

Accordingly, the Habeas Corpus Petition is allowed and the detention order passed by the second respondent against the detenu viz., Manikandan S/o.Kaliyamoorthy, in Cr.M.P.No.17/2019 dated 04.08.2019, is quashed. The above named detenu is ordered to be set at liberty forthwith, unless his custody is required in connection with any other case.

Sd/-
Assistant Registrar

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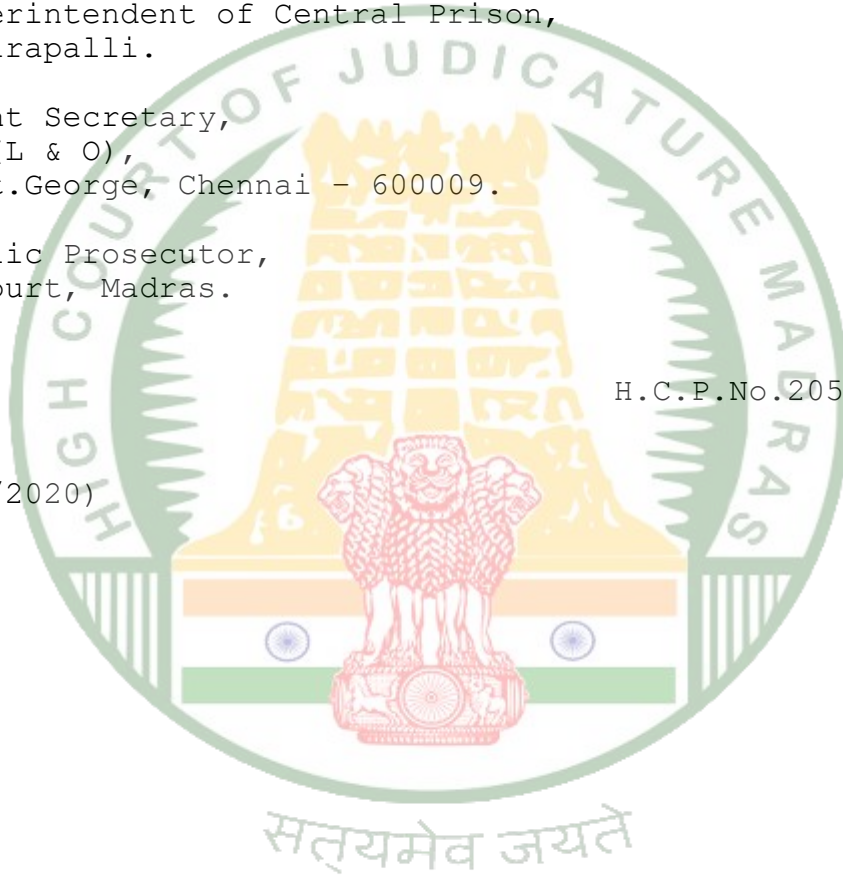
Sub Assistant Registrar

To

- 1.The Additional Chief Secretary,
Government of Tamil Nadu
Prohibition and Excise Department,
Fort St.George, Chennai - 600009.
- 2.The District Collector and District Magistrate,
Office of the District Collector and District Magistrate,
Ariyalur District, Ariyalur.
- 3.The Superintendent of Central Prison,
Tiruchirapalli.
- 4.The Joint Secretary,
Public (L & O),
Fort St.George, Chennai - 600009.
- 5.The Public Prosecutor,
High Court, Madras.

H.C.P.No.2053 of 2019

SSD(CO)
GMY(28/01/2020)



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