

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.09.2020

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
AND
THE HONOURABLE MR.JUSTICE P.VELMURUGAN

H.C.P.No.539 of 2020

P.Anbalagan

...Petitioner

Vs

1.The Additional Chief Secretary to Govt.,
Home, Prohibition and Excise Department,
Fort St.George,
Chennai - 600 009.

2.The District Collector and
District Magistrate,
Villupuram District,
Villupuram.

...Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Habeas Corpus calling for the records of the second respondent in proceedings in RC.No.C2/2073/2020, dated 12.02.2020 by the District Collector and District Magistrate, Villupuram District, Villupuram, directing the respondents herein to produce the detenu Pasupathi @ Pachaiappan aged 26 years, son of the petitioner who is detained under Act 14/82, who is now confined in the Central Prison, Cuddalore, before this Court and set aside the same and set him at liberty forthwith.

For Petitioner : Mr.A.N.Rajan

For Respondents : Mr.R.Prathap Kumar

Additional Public Prosecutor

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O R D E R
(Order of the court was made by N.KIRUBAKARAN.J.,)

The matter was heard through "Video Conference".

2.The father of the detenu has filed this Petition challenging the detention order passed by the Second Respondent in RC.No.C2/2073/2020, dated 12.02.2020 under Tamil Nadu Act 14 of 1982 based on the ground case registered against him. It is

also brought to the notice of this Court that he has got six previous cases to his credit and out of the said six cases, three cases were registered for the offence under Section 302 of Indian Penal Code.

3.Heard Mr.A.N.Rajan, learned Counsel appearing for the Petitioner and Mr. R.Prathap Kumar, learned Additional Public Prosecutor appearing for the Respondents.

4.The records produced before this Court would reveal that intimation of arrest sent to the relatives of the detenu occurring in Page Number 20 of the booklet has not been substantiated and the same vitiates the detention order and hence, this Habeas Corpus Petition has to be necessarily allowed.

5.Accordingly, the detention order passed by the Second Respondent in RC.No.C2/2073/2020, dated 12.02.2020 is quashed. The detenu, viz., Pasupathi @ Pachaiappan, son of Anbalagan, aged 26 years, who is now confined at Central Prison, Cuddalore, is directed to be set at liberty forthwith unless his presence is required in connection with any other case.

6.Even though this Court is not inclined to allow the Writ Petition as the detenu is facing three cases registered for the offence under Section 302 of Indian Penal Code, because of the loopholes in the order passed, this Court is compelled to set aside the detention order. On technical grounds only, the detention order has been quashed by this Court. The very purpose of detention is to prevent the detenu from repeating offences and that public safety is ensured. Since this Court has quashed the detention order, in the interest of public and in the interest of justice, this Court is justified in directing the detenu to appear before the jurisdictional Police Station, every Monday and Friday at 11.00 A.M., till 11.02.2021. The very purpose of this direction is to ensure that the detenu does not repeat the commission of offence and that the police can also have a watch over the movement of the detenu, even if he is outside the prison. Accordingly, this petition is allowed.

Sd/-

Assistant Registrar(CS III)

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Sub Assistant Registrar

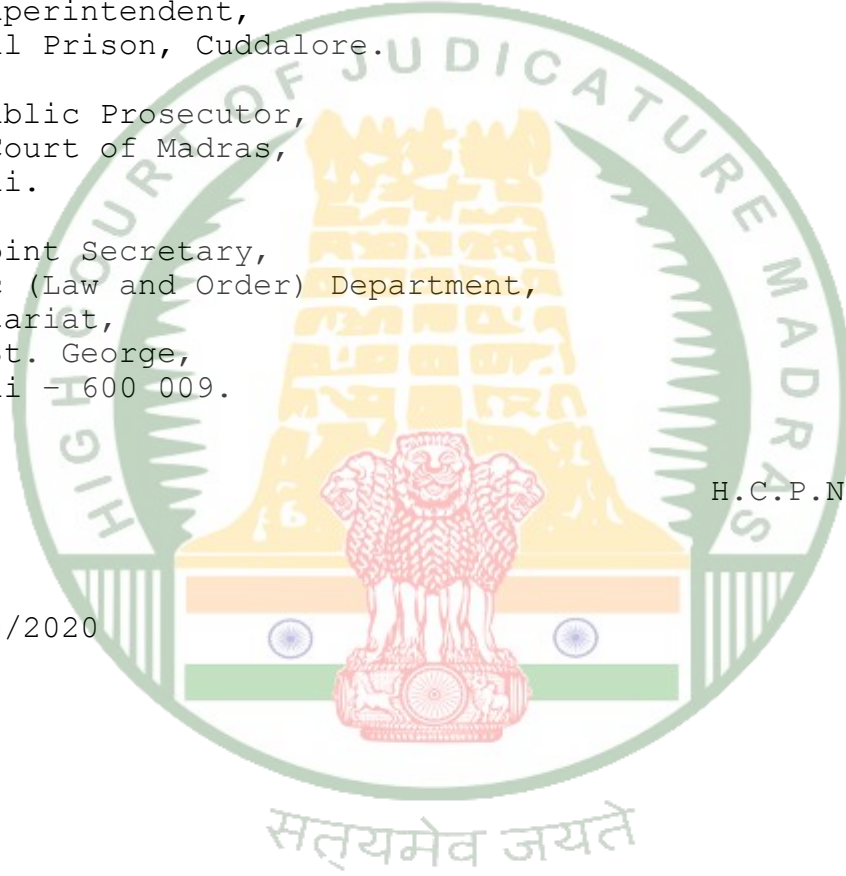
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To

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

H.C.P.No.539 of 2020

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