

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.10.2020

Coram

The Hon'ble Mr. Justice **M.M.SUNDRESH**
and
The Hon'ble Mr. Justice **D.KRISHNAKUMAR**

H.C.P. No. 550 of 2020

Kowsaliya

... Petitioner

-vs-

1.The State of Tamil Nadu
Rep. by its Secretary,
Prohibition and Excise Department,
Fort St. George, Chennai 9.

2.The Commissioner of Police,
Greater Chennai, Veppary, Chennai.

... Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of habeas corpus calling for the records relating to the detention order Memo No. BCDFGISSSV 118 / 2020, dated 20.02.2020 passed by the 2nd respondent under Tamil Nadu Act 14 of 1982 and quash the same and direct the respondents to produce the detenu Annadurai son of Shanmugam male aged 34 years now confined in Central Prison, Puzhal before this Court and set the detenu Annadurai son of Shanmugam, male, aged 34 years at liberty.

For Petitioner : Mr.S.Vellidoss

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 mother of Annadurai, S/o.Shanmugam, aged about 34 years, who is the detenu. The detenu has been detained by the second respondent by his order in Memo No. BCDFGISSSV 118 / 2020, dated 20.02.2020, holding him 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 copies of the documents relied on by him. 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 the accident register copy pertaining to the similar case at Page No.301 of the booklet, it is clear that the detaining authority, by providing illegible copies of the documents, has taken away the rights of detenu to effectively defend himself against his detention. 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. BCDFGISSSV 118 / 2020, dated 20.02.2020 passed by the second respondent is set aside. The detenu, namely, Annadurai, S/o. Shanmugam, aged about 34 years is directed to be released forthwith unless his detention is required in connection with any other case.

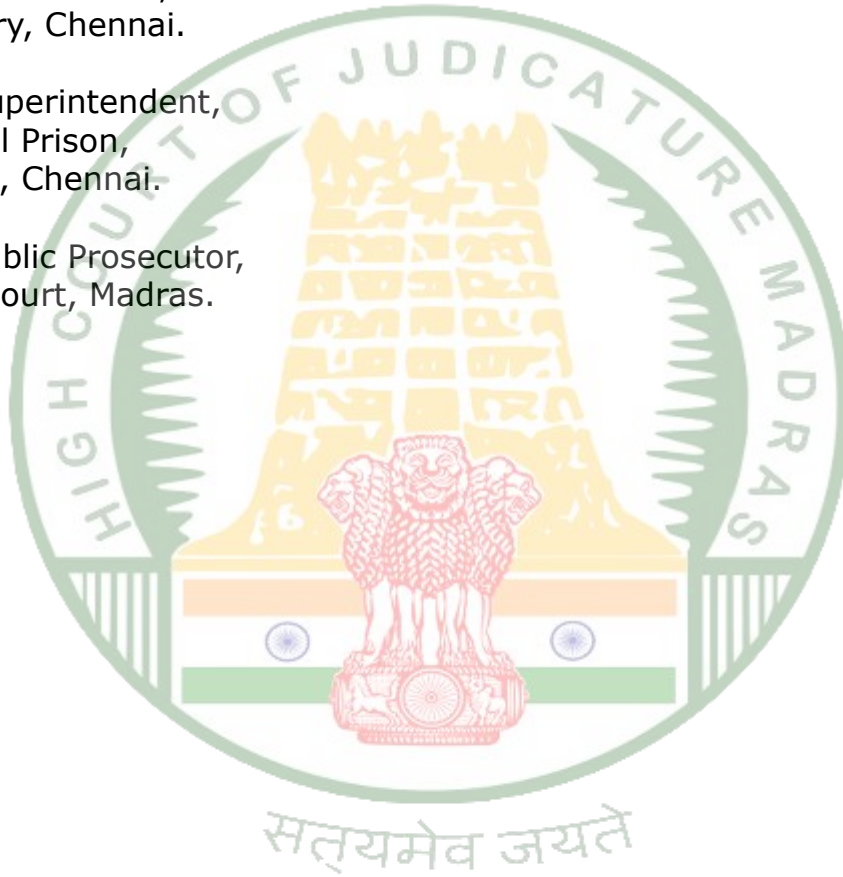
(M.M.S.,J.) (D.K.K.,J.)

05.10.2020

Index: Yes/No
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To

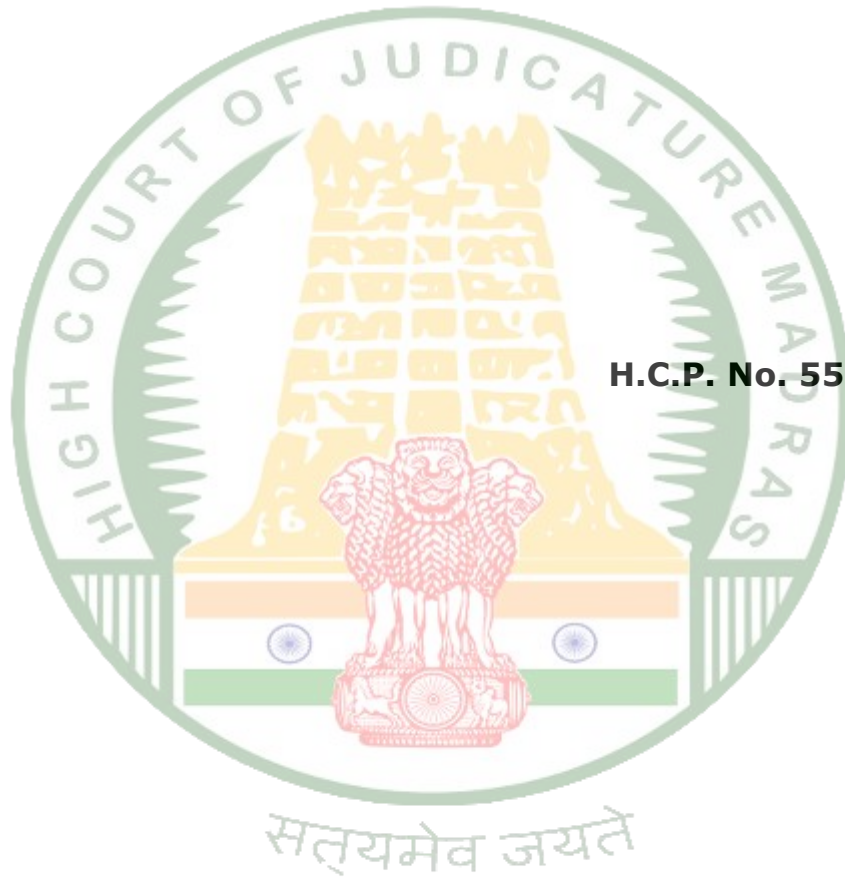
- 1.The Secretary,
Prohibition and Excise Department,
Fort St. George, Chennai 9.
- 2.The Commissioner of Police,
Greater Chennai,
Veppary, Chennai.
- 3.The Superintendent,
Central Prison,
Puzhal, Chennai.
- 4.The Public Prosecutor,
High Court, Madras.



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**M.M.SUNDRESH, J.
and
D.KRISHNAKUMAR, J.**

mml/ssm



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