

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. 632 OF 2020

Pandian

.. Petitioner

Vs.

- 1.The State,
rep.by The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai.
- 2.The Commissioner of Police,
Greater Chennai,
Office of the Commissioner of Police,
Vepery, Chennai-600 007
- 3.The Inspector of Police,
NIBCID, Chennai Unit,
Chennai.
- 4.The Superintendent,
Central Prison,
Puzhal, Chennai

.. Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ or order or direction, particularly in the nature of Habeas Corpus against the detention order passed by the 2nd respondent in BCDFGISSV No.136/2020 dated 25.02.2020 directing the respondents to produce the detenu Murugan, aged 35 years, son of Pandian, who is confined at Central Prison-II, Puzhal, Chennai, before this Court and set him at liberty.

For Petitioner : Mr.R.C.Paul Kanagaraj

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 father of Murugan, aged 35 years, son of Pandian, who is the detenu. The detenu has been detained by the second respondent by his order in BCDFGISSSV No.136/2020 dated 25.02.2020, holding him to be a "Drug Offender", as contemplated under Section 2(e) 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 Form 91 pertaining to the similar case at Page No.171 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 BCDFGISSSV No.136/2020 dated 25.02.2020 passed by the second respondent is set aside. The detenu, namely, Murugan, aged 35 years, son of Pandian, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

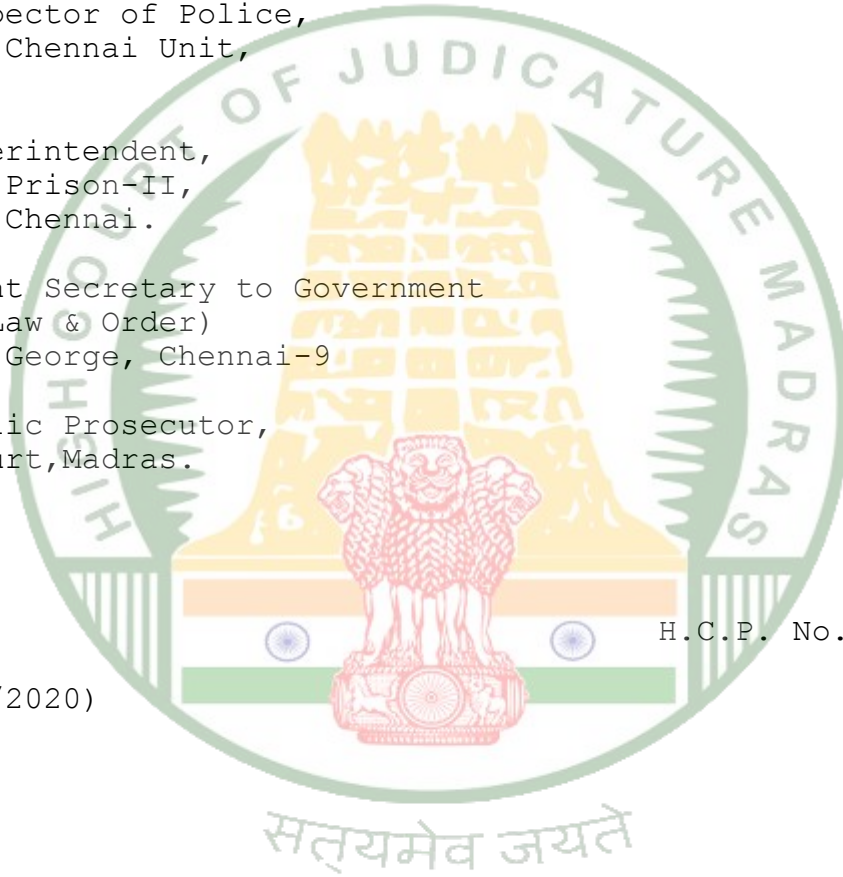
mmi/ssm

To

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai.
- 2.The Commissioner of Police,
Greater Chennai,
Office of the Commissioner of Police,
Vepery, Chennai-600 007
- 3.The Inspector of Police,
NIBCID, Chennai Unit,
Chennai.
- 4.The Superintendent,
Central Prison-II,
Puzhal, Chennai.
- 5.The Joint Secretary to Government
Public(Law & Order)
Fort St.George, Chennai-9
- 6.The Public Prosecutor,
High Court, Madras.

KK(CO)
NRA(14/12/2020)

H.C.P. No.632 of 2020



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