

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.12.2020

CORAM :

THE HON'BLE MR.JUSTICE M.M.SUNDRESH

AND

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

H.C.P.NO.2107 of 2020

S.PRAKASH

... PETITIONER

-VS-

1.THE STATE OF TAMILNADU
REP.BY ITS SECRETARY TO GOVERNMENT
HOME, PROHIBITION AND EXCISE DEPARTMENT
FORT ST.GEORGE, CHENNAI 600 009.

2.THE DISTRICT COLLECTOR AND DISTRICT MAGISTRATE,
CUDDALORE DISTRICT,
CUDDALORE.

3.THE SUPERINTENDENT OF POLICE,
CUDDALORE DISTRICT,
CUDDALORE.

4.THE SUPERINTENDENT,
CENTRAL PRISON, CUDDALORE.

5.THE INSPECTOR OF POLICE
NEYVELI THERMAL POLICE STATION,
NEYVELI, CUDDALORE.

... RESPONDENTS

Petition filed under Article 226 of the Constitution of India to issue a writ of habeas corpus to call for the records in C3/D.O./25/2020 dated 28.02.2020 on the file of the 2nd respondent and quash the same as illegal and consequently direct the respondents to produce the petitioner's cousin brothers Meesaikaran @ Uthirapathi, about 24 years, who now detained in Central Prison, Cuddalore before this Court and set him at liberty.

For Petitioner : Mr.M.Selvam

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 brother of Meesaikaran @ Uthirapathi, S/o.Muthusamy, male, aged 44 years, who is the detenu. The detenu has been detained by the second respondent in connection with order in C3/D.O./25/2020 dated 28.02.2020, holding him to be a "Drug Offencer", 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 the observation mahazar at Page No.23 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 C3/D.O./25/2020 dated 28.02.2020 passed by the second respondent is set aside. The detenu, namely, Meesaikaran @ Uthirapathi, S/o.Muthusamy, male, aged 44

years, is directed to be released forthwith unless his detention is required in connection with any other case.

-Sd/-
Assistant Registrar (CS III)

// True Copy //

Sub Assistant Registrar

To

- 1.THE STATE OF TAMILNADU
REP.BY ITS SECRETARY TO GOVERNMENT
HOME, PROHIBITION AND EXCISE DEPARTMENT
FORT ST.GEORGE, CHENNAI 600 009.
- 2.THE DISTRICT COLLECTOR AND DISTRICT MAGISTRATE,
CUDDALORE DISTRICT,
CUDDALORE.
- 3.THE SUPERINTENDENT OF POLICE,
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CUDDALORE.
- 4.THE SUPERINTENDENT,
CENTRAL PRISON, CUDDALORE.
- 5.THE INSPECTOR OF POLICE
NEYVELI THERMAL POLICE STATION,
NEYVELI, CUDDALORE.
- 6.THE PUBLIC PROSECUTOR,
HIGH COURT, MADRAS.
- 7.THE JOINT SECRETARY TO GOVERNMENT,
PUBLIC (LAW AND ORDER),
FORT ST.GEORGE, CHENNAI-09.

H.C.P. No. 2107 of 2020

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01.12.2020



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