

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.657 OF 2020

Sathya

.. Petitioner/Wife of Detenu

Vs.

1. State of Tamil Nadu,
rep.by the Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Fort St.George,
Chennai-600 009
2. The Commissioner of Police,
Greater Chennai, The Commissioner Office,
Vepery, Chennai-7.
3. The Superintendent of Police,
Central Prison, Puzhal, Chennai-66
4. The Inspector of Police,
P6-Kodungaiyur Police Station,
Chennai-118

... Respondents

Prayer:- 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 in Memo No.144/BCDFGISSSV/2020, dated 28.02.2020, passed by the 2nd respondent under the Tamil Nadu Act 14 of 1982 and set aside the same and direct the respondent to produce the petitioner's husband Paisal Mohamed, S/o.Mohamed Rafiq the detenu, now confined in Central Prison, Puzhal, Chennai, before this Court and set the petitioner's husband Paisal Mohamed, S/o.Mohamed Rafiq, aged about 32 years the detenu herein set him at liberty.

For Petitioner : Mr.N.Naresh

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 wife of Paisal Mohamed, S/o.Mohamed Rafiq, aged about 32 years, who is the detenu. The detenu has been detained by the second respondent by his order in Memo No.144/BCDFGISSSV/2020, dated 28.02.2020 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.68 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.144/BCDFGISSSV/2020, dated 28.02.2020 passed by the second respondent is set aside. The detenu, namely, Paisal Mohamed, S/o.Mohamed Rafiq, aged about 32 years, is directed to be released forthwith unless his detention is required in connection with any other case.

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Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

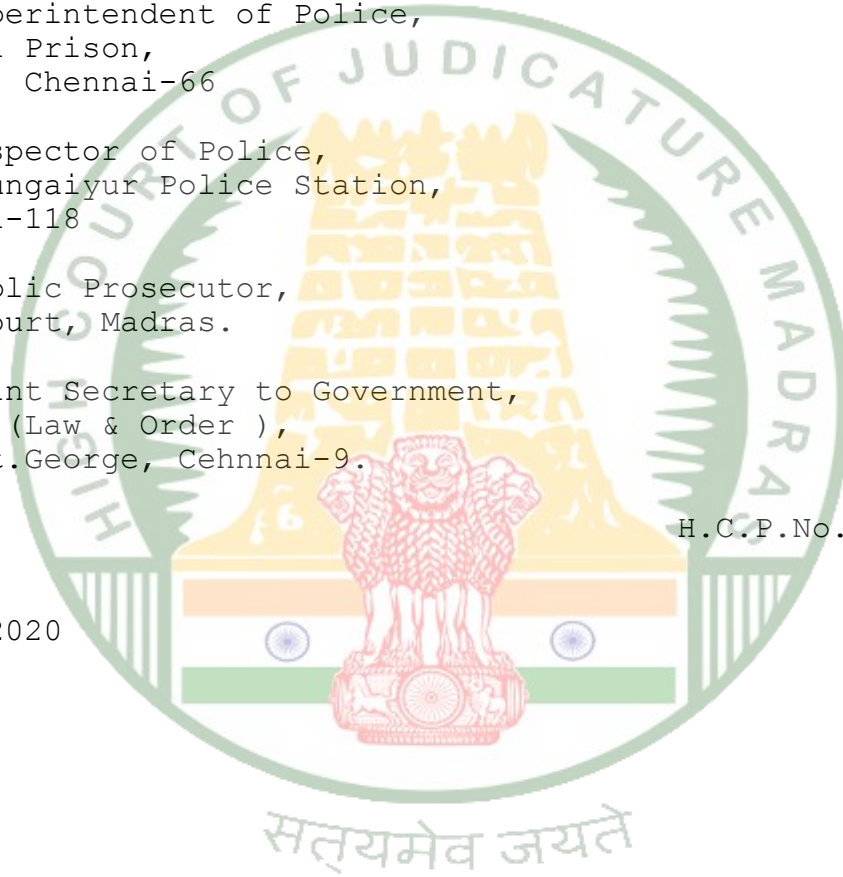
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To

1. The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Fort St.George,
Chennai-600 009
2. The Commissioner of Police,
Greater Chennai,
The Commissioner Office,
Vepery, Chennai-7.
3. The Superintendent of Police,
Central Prison,
Puzhal, Chennai-66
4. The Inspector of Police,
P6-Kodungaiyur Police Station,
Chennai-118
5. The Public Prosecutor,
High Court, Madras.
6. The Joint Secretary to Government,
Public (Law & Order),
Fort St.George, Chennai-9.

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CA (CO)
CS/30/11/2020



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