

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.04.2020

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THE HONOURABLE Mr.JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE Mr.JUSTICE M.NIRMAL KUMAR

W.P.No.7503 of 2020

and

Connected Writ Miscellaneous Petitions

A.P.Suryaprakasam

... Petitioner

Versus

The Commissioner of Police,
Greater Chennai Corporation,
EVK Sampath Salai,
Vepery,
Chennai-600 007.

... Respondent

Prayer:- Writ petition has been filed under Article 226 of the Constitution of India praying for the issuance of Writ of Mandamus, directing the respondent not to invoke the provisions of Act 14 of 1984 (shortly called Goondas Act) along with other relevant provisions of IPC and provide necessary police protections to the corona victims bodies till their bodies are given a decent burial .

For Petitioner : Mr.M.L.Ravi
For Respondent : Mr.V.Jayaprakash Narayanan
Government Pleader

ORDER

The Writ Petition, styled as a Public Interest Litigation, is filed by a practicing Advocate, praying for invocation of the provisions of the Tamil Nadu Act 14 of 1982, against the offender to prevent the burial of mortal remains of medical Doctors, who died on account of, COVID-19 complications.

2.This Court heard the submissions of M.L.Ravi, learned counsel appearing for the petitioner would submit that this Court in *suomotu* W.P.No.7492 of 2020, had already taken up the issue, and in the light of the role played by the accused persons and others offenders, the Commissioner of Police, Greater Chennai, has to invoke the Tamil Nadu Act 14, 1982, and detain them.

3.Mr.Jayaprakash Narayanan, learned Government Pleader accepts notice on behalf of the respondent and would submit that in the light of entertainment of *suomotu* W.P.No.7492 of 2020 and issuance of notice, status report is required in this regard and would further submit that the Writ Petition

as prayed for, is not maintainable, in law.

4.This Court has carefully considered the rival submission and perused the materials placed before.

5.Section 3 of the Tamil Nadu Act 14, 1982, deals with the power of the State Government to make orders detaining certain persons and it is relevant to extract the same:-

“3. Power to make orders detaining certain persons:-

(1) The State Government may, if satisfied with respect to any bootlegger d[or cyber-law offender] or drug-offender a[or forest offender] or goonda or immoral traffic offender c[or sand-offender] [or sexual offender] or slum-grabber b[or video pirate] that with a view to prevent him from acting in any manner prejudicial to the maintenance of public order, it is necessary so to do make an order directing that such person be detained.*

(2) If, having regard to the circumstances prevailing, or likely to prevail in any area within the local limits of the

jurisdiction of a District Magistrate or a Commissioner of Police, the State Government are satisfied that it is necessary so to do, they may, by order in writing, direct that during such period as may be specified in the order, such District Magistrate or Commissioner of Police may also, if satisfied as provided in sub-section (1), exercise the powers conferred by the said sub-section:

“Provided that the period specified in the order made by the State Government under this subsection shall not, in the first instance, exceed three months, but the State Government may, if satisfied as aforesaid that it is necessary so to do, amend such order to extend such period from time to time by any period not exceeding three months at any one time.”

(3) When any order is made under this section by an officer mentioned in sub-section (2), he shall forthwith report the fact to the State Government together with the grounds on which the order has been made and such other particulars as, in his opinion, have a bearing on the matter, and no such order shall remain in force for more than twelve days after the making thereof, unless, in the meantime, it has been approved by the State Government.”

6.In the considered opinion of this Court, passing of the order of detention under the said Act involves placement of sufficient materials, application of mind on the part of Detaining Authority and this Court cannot issue any positive order as the derivation of subjective satisfaction falls within the domain of the Detaining Authority.

7.The prayer sought for by the petitioner, is not maintainable. Therefore, the Writ Petition is dismissed as not maintainable.

(M.S.N.,J) (M.N.K.,J)
21.04.2020

Internet : Yes

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To
The Commissioner of Police,
Greater Chennai Corporation,
EVK Sampath Salai,
Vepery,
Chennai-600 007.

M.SATHYANARAYANAN, J
and
M.NIRMAL KUMAR, J
vv2



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