

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.11.2020

Coram

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

H.C.P. No. 753 of 2020

Nasrin Fathima

... Petitioner

Vs.

1.The Secretary to Government of India
Ministry of Home Affairs,
(Department of Internal Security),
North Block, New Delhi 110 001.

2.The State of Tamil Nadu
rep. by its Secretary to Government,
Home, Prohibition & Excise Department,
Fort St.George, Chennai 600 009.

2.The Commissioner of Police/
Detaining Authority,
Office of the Commissioner of Police,
Coimbatore City,
Coimbatore - 641 018.

4.The Superintendent of Prison,
Central Prison, Coimbatore.

5.The Inspector of Police,
D3 Podanur Police Station,
Coimbatore City, Coimbatore.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Habeas Corpus or any other direction to produce the body of the detenu by name Noor Mohammed, son of Shahul Hameed, aged 30 years, presently confined at Central Prison, Coimbatore before this Court and set him at liberty forthwith, after calling for the records pertaining to the detention order and grounds of detention order Tamil and English dated 19.03.2020 made in Crime No.213/2020, vide C.No.06/NSA/IS/2020 passed by the third respondent, quash the same.

For Petitioner : Mr.A.Nowpal

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 Noor Mohammed, son of Shahul Hameed, aged 30 years, who is the detenu. The detenu has been detained by the third respondent by his order in C.No.06/NSA/IS/2020 dated 19.03.2020 under sub-section (2) of Section 3 of the National Security Act, 1980 (Central Act 65 of 1980) read with orders issued by the Government of Tamil Nadu in G.O.Ms.No.48, Public (Law and Order.F) Department dated 06.01.2020 under sub-section (3) of

Section 3 of the said Act. 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. We have also perused the counter affidavit.

3. Learned counsel appearing for the petitioner submitted that the order passed cannot be sustained in the eye of law as there is no translation of the Government Order passed invoking Section 3 (2) of the National Security Act in G.O.Ms.No.185 Public (Law and Order F) Department dated 26.03.2020 by which the power has been conferred on the Commissioner of Police, namely the third respondent. It is further submitted by him that it is a solitary case.

4. Learned Additional Public Prosecutor appearing for the State placing reliance upon the counter affidavit filed by the third respondent submitted that non-furnishing of the translated version of the Government Order as aforesaid would not vitiate the order.

5. Considering the submissions made, we are of the view that

inasmuch as the translation of the Government Order has not been made, as referred above, as against the other documents, which was accordingly done, the detention order cannot be sustained in the eye of law. In such view of the matter, we are inclined to allow the habeas corpus petition.

6. In the result, the Habeas Corpus Petition is allowed and the order of detention in C.No.06/NSA/IS/2020 dated 19.03.2020, passed by the third respondent is set aside. The detenu, namely, Noor Mohammed, son of Shahul Hameed, aged 30 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.)
23.11.2020

Index: Yes/No
mmi/ssm

सत्यमेव जयते

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To

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6.The Public Prosecutor,
High Court, Madras.

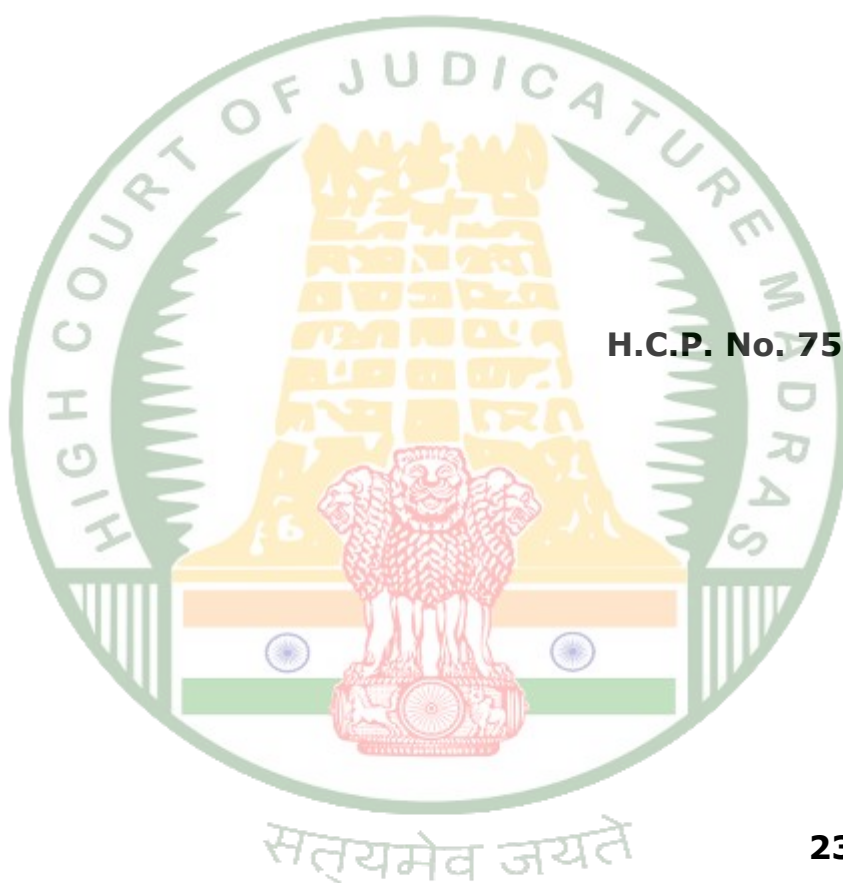
The seal of the High Court of Madras is a circular emblem. It features a central yellow temple gopuram (tower) with a red lion capital of Ashoka in front of it. The gopuram is set against a green background with a white border. The words "HIGH COURT OF MADRAS" are written in a semi-circle around the top, and "सत्यमेव जयते" (Satyameva Jayate) is written in Devanagari script at the bottom.

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HCP No. 753 of 2020

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

mmi/ssm



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