

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.12.2020

Coram

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

H.C.P. No. 792 of 2020

R.Maragatham

...Petitioner

-vs-

1. State of Tamil Nadu
rep. by its Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai -09.
2. The District Collector and District Magistrate,
Krishnagiri District,
Krishnagiri.
3. The Superintendent of Prisons,
Central Prison, Salem.
4. The Inspector of Police,
Mathigiri Police Station,
Krishnagiri District.

...Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of habeas corpus to call for the entire records from the 2nd respondent in connection in with order in S.C.No.24 of 2020 dated 08.05.2020 and quash the same and produce the petitioner's husband namely Radha @ Radhakrishnan, S/o. (Late) Velukutti, aged 47 years, now confined in Central Prison, Salem under the Tamil Nadu Act 14 of 1982 before this Court and set him at liberty.

For Petitioner .. Mr.P.Pugalenth
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 the detenu. The detenu has been detained by the second respondent by his order in S.C.No.24 of 2020 dated 08.05.2020, holding him to be a

"Goonda", as contemplated under Section 2(f) 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. We have also perused the records produced by the Detaining Authority.

3. Among other grounds, the detention order is mainly attacked on the ground that there is a delay in passing the order of detention. Learned counsel appearing for the petitioner strongly contended that though the detenu was arrested on 27.02.2020, the detention order was passed only on 08.05.2020 i.e., after a considerable delay of three months. Therefore, the detention order has to be set aside.

4. As seen from the grounds of detention, it is clear that though the detenu was arrested on 27.02.2020, the order of detention came to be passed only on 08.05.2020 and hence, there is an abnormal delay in passing the order of Detention, which caused prejudice to the interest of the detenu.

5. We have gone through the entire materials placed on record. There is no satisfactory explanation offered by the Detaining Authority for the delay in passing the order of detention. Hence the impugned order of detention is liable to be set aside.

6. In the result, the Habeas Corpus Petition is allowed and the order of detention in S.C.No.24 of 2020 dated 08.05.2020 passed by the second respondent is set aside. The detenu, namely, Radha @ Radhakrishnan, S/o. (Late) Velukutti, aged 47 years, is directed to be released forthwith unless his detention is required in connection with any other case.

सत्यमेव जयते Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

+1cc to Mr.*, Advocate, S.R.No.
+1cc to Mr.*, Advocate, S.R.No.
+1cc to the Government Pleader, S.R.No.

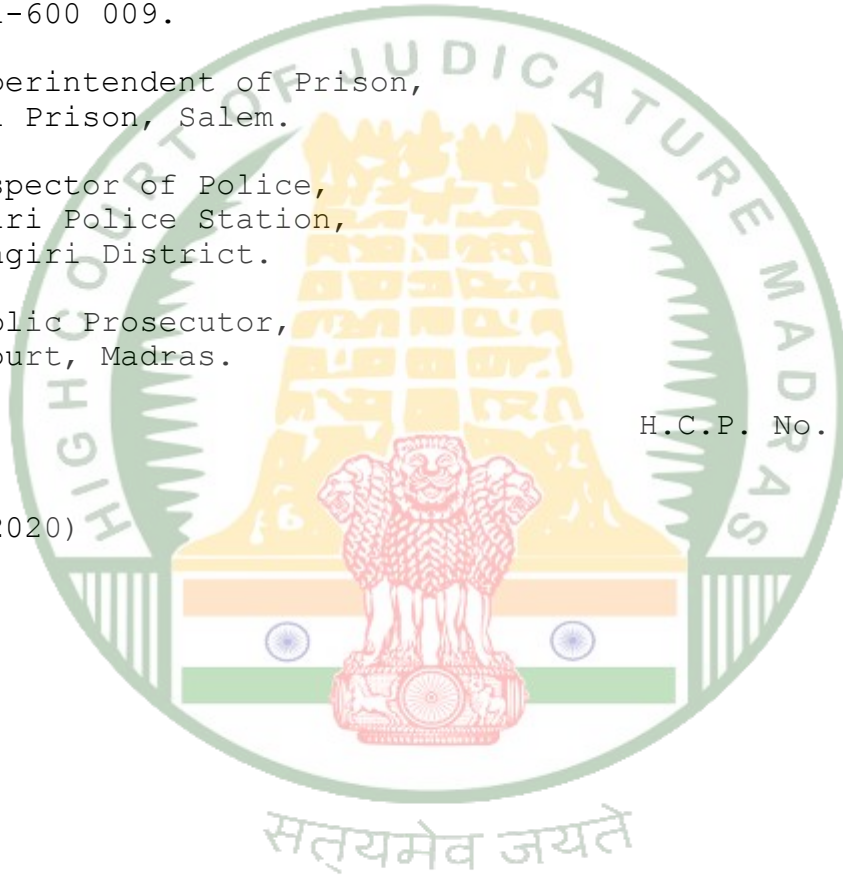
(CO)
RV(14/12/2020)

To

1. The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai -09.
2. The District Collector and District Magistrate,
Krishnagiri District,
Krishnagiri.
3. The Joint Secretary to Government,
Public(Law & Order), Secretariat,
Chennai-600 009.
4. The Superintendent of Prison,
Central Prison, Salem.
5. The Inspector of Police,
Mathigiri Police Station,
Krishnagiri District.
6. The Public Prosecutor,
High Court, Madras.

H.C.P. No. 792 of 2020

UM(CO)
RV(22/12/2020)



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