

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:06.11.2020

Coram

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

H.C.P. No. 850 of 2020

Francis Deepak Raj

.. Petitioner

Vs.

1. The State of Tamil Nadu, rep. by
The Secretary to Government,
Department of Home, Prohibition and Excise,
Secretariat, Fort St.George, Chennai.
 2. The Commissioner of Police,
Greater Chennai, Office of Commissioner of Police,
Vepery, Chennai - 7.
 3. The Superintendent of Prison,
Central Prison, Puzhal-II, Puzhal, Chennai.
 4. The Inspector of Police,
P-5, MKB Nagar Police Station,
Chennai - 600 039.
- ... Respondents

Petition filed under Article 226 of the Constitution of India praying for a Writ of Habeas Corpus calling for the records in Memo No.206/BCDFGISSSV/2020 passed by the second respondent on 18.03.2020 on the file of the second respondent and quash the same as illegal and consequently direct the respondent to produce petitioner brother Vivek @ Leo Vivek, Son of Jeyaraj aged about 30 years before this Hon'ble Court who is now detained in Central Prison, Puzhal-II, Chennai and set him at liberty.

For Petitioner : Mr.A.Elumalai

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 Vivek @ Leo Vivek, Son of Jeyaraj aged about 30 years. The detenu has been detained by the second respondent by his order in Memo No.206/BCDFGISSSV/2020 dated 18.03.2020, 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 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 arrest intimation at Page No.257 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.206/BCDFGISSSV/2020 dated 18.03.2020 passed by the second respondent is set aside. The detenu, namely, Vivek @ Leo Vivek, Son of Jeyaraj aged about 30 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-

Assistant Registrar

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Sub Assistant Registrar

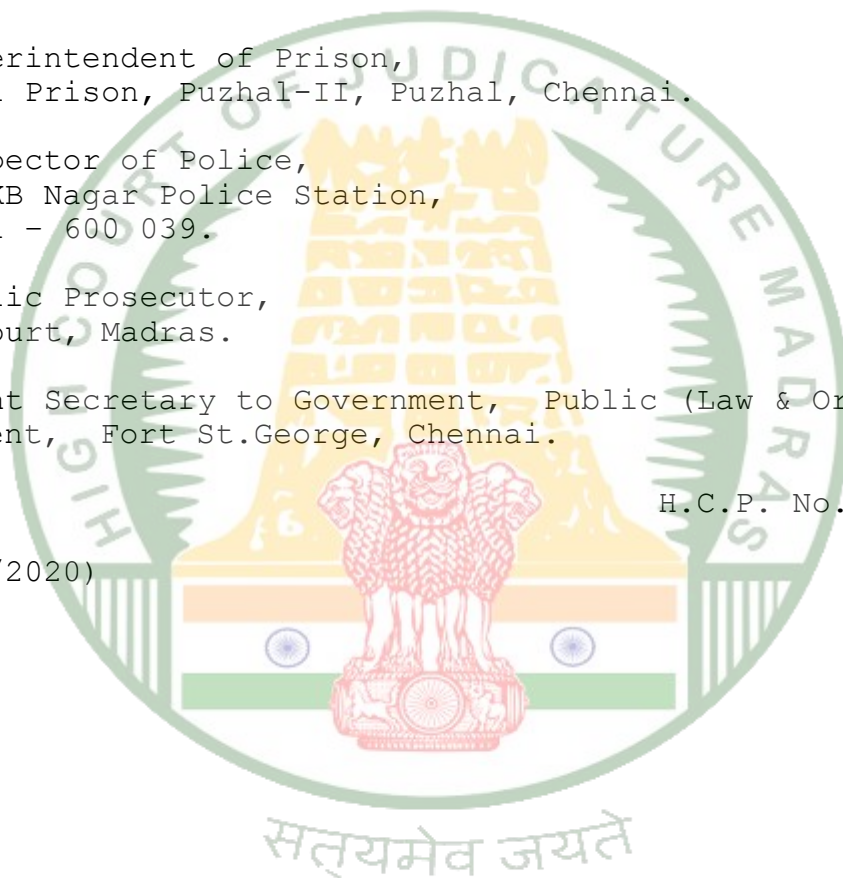
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To

- 1.The Secretary to Government,
Department of Home, Prohibition and Excise,
Secretariat, Fort St.George, Chennai.
- 2.The Commissioner of Police,
Greater Chennai, Office of Commissioner of Police,
Vepery, Chennai - 7.
- 3.The Superintendent of Prison,
Central Prison, Puzhal-II, Puzhal, Chennai.
- 4.The Inspector of Police,
P-5, MKB Nagar Police Station,
Chennai - 600 039.
- 5.The Public Prosecutor,
High Court, Madras.
- 6.The Joint Secretary to Government, Public (Law & Order)
Department, Fort St.George, Chennai.

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PP(CO)
RMP(08/12/2020)



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