

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:14.10.2020

Coram

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

H.C.P. No. 928 of 2020

Rathika

... Petitioner/
Mother of the dentenu

-vs-

1. The Secretary to Government
Home, Prohibition and Excise Department,
Secretariat, Chennai - 09.
2. The Commissioner of Police,
Greater Chennai.
3. The Superintendent of Prison,
Central Prison, Puzhal,
Chennai - 66.
4. The Inspector of Police,
L&O, S-11, Tambaram Police Station,
Chennai.

... Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of habeas corpus calling for the records in connection with the order of detention passed by the second respondent dated 27.02.2020 in Memo No. 142/BCDFGISSSV/2020 against the petitioner son Udhayakumar @ Udhaya, male, aged 25 years, S/o.Senthilkumar, who is confined at Central Prison, Puzhal, Chennai and set aside the same and direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner : Mr.S.Senthil Vel

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 mother of Udhayakumar @ Udhaya, male, aged 25 years, S/o.Senthilkumar, who is the detenu. The detenu has been detained by the second respondent in connection with order in Memo No. 142/BCDFGISSSV/2020, dated 27.02.2020 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 Form 91 pertaining to the similar case at Page No.313 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. 142/BCDFGISSSV/2020, dated 27.02.2020 passed by the second respondent is set aside. The detenu, namely, Udhayakumar @ Udhaya, S/o.Senthilkumar, male, aged 25 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

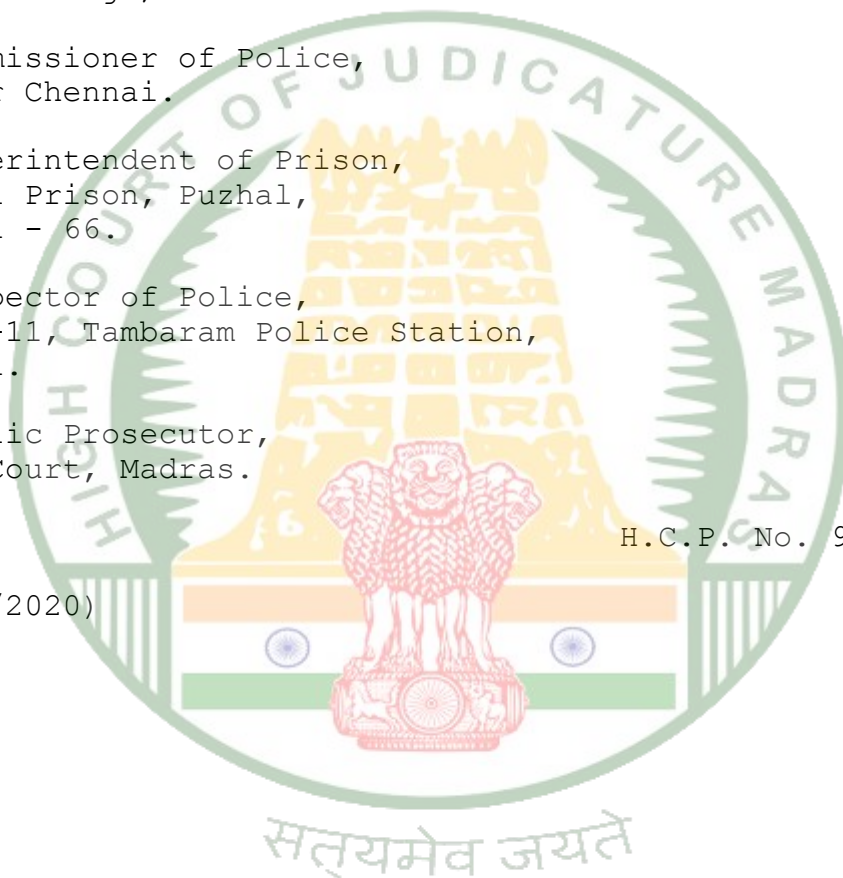
mmi/ssm

To

- 1.The Secretary to Government
Home, Prohibition and Excise Department,
Secretariat, Chennai - 09.
- 2.The Joint Secretary to Government,
Public (Law & Order) Department,
Fort St.George, Chennai.
- 3.The Commissioner of Police,
Greater Chennai.
- 4.The Superintendent of Prison,
Central Prison, Puzhal,
Chennai - 66.
- 5.The Inspector of Police,
L&O, S-11, Tambaram Police Station,
Chennai.
- 6.The Public Prosecutor,
High Court, Madras.

NRJK(CO)
RMP(09/11/2020)

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