

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.12.2020

Coram

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

H.C.P. No. 1049 of 2020

Kathiravan ...Petitioner/Detenu's Son

-vs-

1. The Secretary to the Government
Government of Tamil Nadu
(Home) Prohibition and Excise Dept.
Fort St. George, Chennai - 600 009.
2. The District Collector and District Magistrate,
Ariyalur District, Ariyalur.
3. The Superintendent of Police,
Ariyalur District, Ariyalur.
4. The Superintendent,
Central Prison, Tiruchirapalli.
5. Inspector of Police,
Sendurai Police Station,
Ariyalur District. ... Respondents/Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of habeas corpus calling for the entire records connected with the order of the 2nd respondent herein concerned in Cr.M.P. No. 51/2020 dated 30.05.2020 and quash the order of detention passed therein by the 2nd respondent herein against the detenu and directing the respondents herein to produce the body and person of the detenu by name GURUSAMY, Son of Paramasivam aged about 52 years, now detained at Central Prison, Tiruchirapalli before this Court and set him at liberty forthwith.

For Petitioner : Mr.K.Balu

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 son of Gurusamy, Son of Paramasivam, aged about 52 years, who is the detenu. The detenu has been detained by the second respondent by his order in Cr.M.P. No. 51/2020 dated 30.05.2020, 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. Though the 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 post mortem certificate has not been translated in vernacular language. 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 Page Nos. 52A and 52B of the booklet, it is clear that the post mortem certificate has not been translated in vernacular language. 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 Cr.M.P. No. 51/2020 dated 30.05.2020, passed by the second respondent is set aside. The detenu, namely, Gurusamy, Son of Paramasivam aged about 52 years, is directed to be released forthwith unless his detention is required in connection with any other case.

WEB COPY

Sd/-
Asst.Registrar (CS VII)

/true copy/

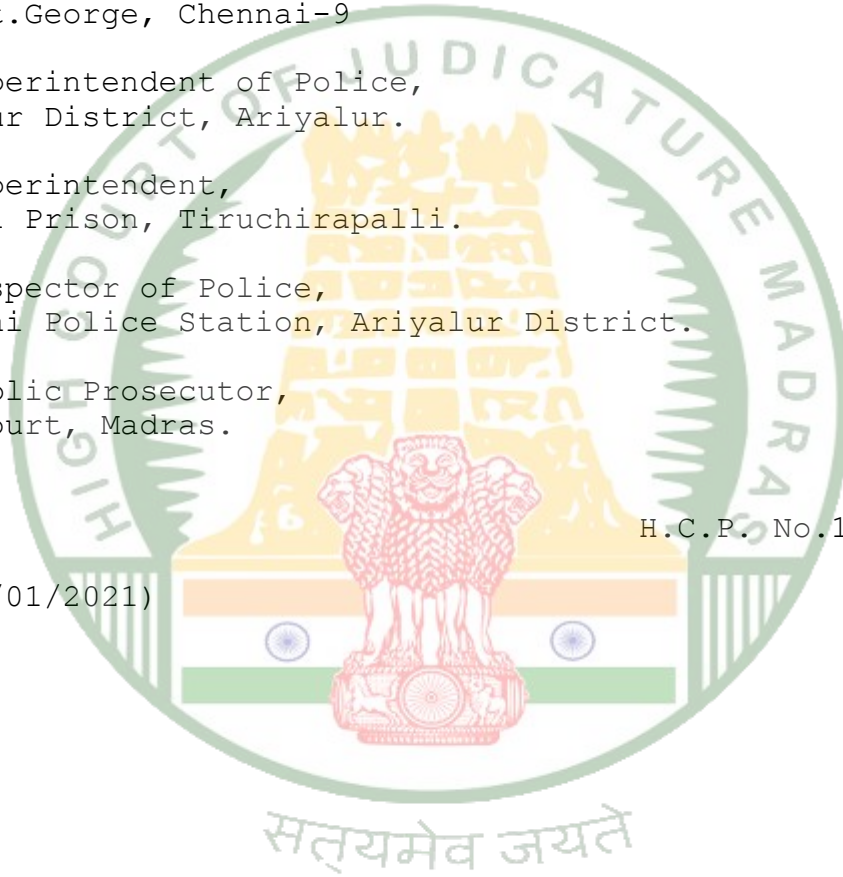
Sub Asst. Registrar

To

1. The Secretary to the Government
Government of Tamil Nadu
(Home) Prohibition and Excise Dept.
Fort St. George, Chennai - 600 009.
2. The District Collector and District Magistrate,
Ariyalur District, Ariyalur.
3. The Secretary to Government,
Public (Law & Order),
Fort St.George, Chennai-9
4. The Superintendent of Police,
Ariyalur District, Ariyalur.
5. The Superintendent,
Central Prison, Tiruchirapalli.
6. The Inspector of Police,
Sendurai Police Station, Ariyalur District.
7. The Public Prosecutor,
High Court, Madras.

H.C.P. No.1049 of 2020

rr ii (08/01/2021)



WEB COPY