

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.11.2020

Coram

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

H.C.P. No. 1114 of 2020

A.Mariya ... Petitioner

vs

1.State of Tamil Nadu rep. By
The Secretary,
Home, Prohibition and Excise Department,
Fort St. George, Chennai - 9.

2.The Commissioner of Police,
The Greater Chennai City,
Vepery, Chennai - 7.

3.The Superintendent of Prison,
Central Prison, Puzhal, Chennai - 66.

4.The Inspector of Police,
Chennai Central Railway Police Station,
Chennai.

...Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of habeas corpus calling for the records relating to the detention order in Memo No.204/BCDFGISSSV/2020, dated 18.03.2020 passed by the 2nd respondent under the Tamilnadu Act 14 of 1982 and set aside the same and direct the respondent to Produce the petitioner's husband ANTHONY KUMAR, S/o. FRANCIS, aged about 30 years the detenu, now confined in Central Prison, Puzhal, Chennai before this Court and set the petitioner's husband ANTHONY KUMAR, S/O. FRANCIS aged about 30 years the detenu herein at liberty.

For Petitioner : Mr. K.S.Kaviarasu

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 Anthony Kumar, S/o. Francis, aged about 30 years, who is the detenu. The detenu has been detained by the second respondent by his order in Memo No.204/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. We have also perused the records produced by the Detaining Authority.

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 similar case confession statement at Page Nos.501 and 503 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.204/BCDFGISSSV/2020, dated 18.03.2020, passed by the second respondent is set aside. The detenu, namely, Anthony Kumar, S/o. Francis, aged about 30 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-
Assistant Registrar(CS IV)

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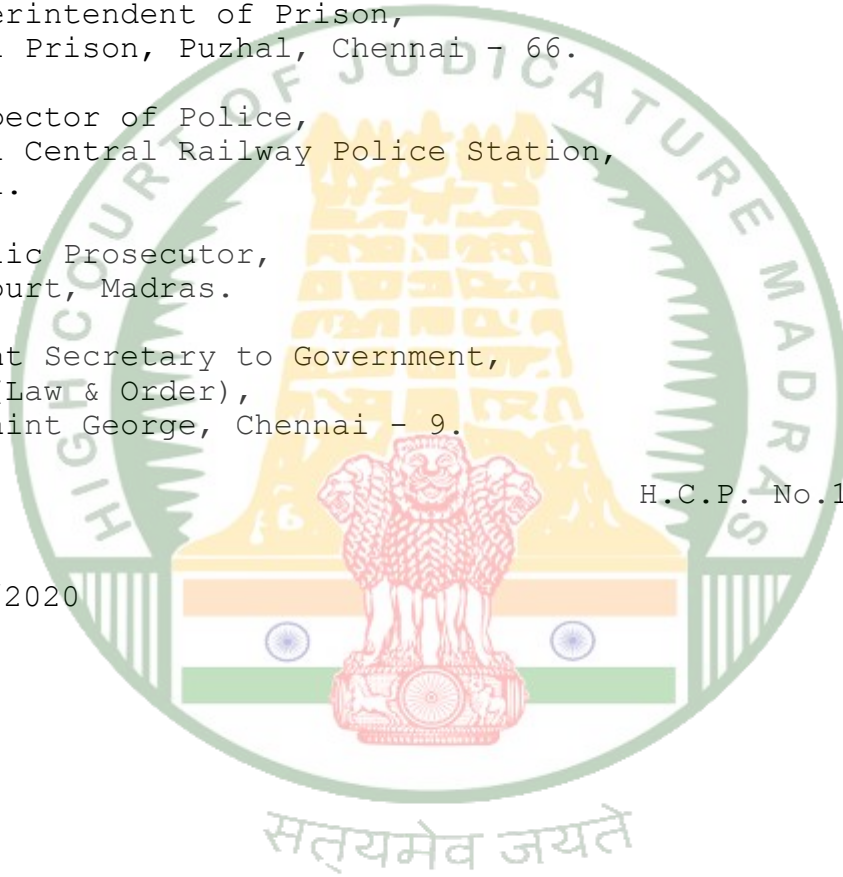
Sub Assistant Registrar

To

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George, Chennai - 9.
- 2.The Commissioner of Police,
The Greater Chennai City,
Vepery, Chennai - 7.
- 3.The Superintendent of Prison,
Central Prison, Puzhal, Chennai - 66.
- 4.The Inspector of Police,
Chennai Central Railway Police Station,
Chennai.
- 5.The Public Prosecutor,
High Court, Madras.
- 6.The Joint Secretary to Government,
Public(Law & Order),
Fort Saint George, Chennai - 9.

H.C.P. No.1114 of 2020

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srg 03/12/2020



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