

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.11.2020

Coram

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

H.C.P. No. 1224 of 2020

Nithil Kumar

...Petitioner

-vs-

1. The Secretary to Government
Home, Prohibition and Excise Department
Fort St.George, Chennai 600 009.
2. The Commissioner of Police,
Greater Chennai, Veppery, Chennai.
3. The Superintendent of Police,
Central Prison, Puzhal, Women,
Puzhal.
4. The Inspector of Police,
N4 Fishing Harbour Police Station,
Chennai.

...Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of habeas corpus calling for the entire records in connection with the order of detention passed by the second respondent dated 23.03.2020 in BCDFGISSSV No.214 of 2020 against the petitioner's mother Mrs.Menaka, female, aged about 49 years, wife of Arumugam, who is confined at Central Prison (Women), Puzhal, Chennai, and set aside the same and direct the respondents to produce the detainee before this Court and set her at liberty.

For Petitioner : Mr.M.Illiyas

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 Menaka, female, aged about 49 years, wife of Arumugam, who is the detainee. The detainee has been detained by the second respondent in connection with order in BCDFGISSSV No.214/2020 dated 23.03.2020, holding her 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 detainee, has not furnished the legible copies of the documents relied on by him. This deprived the detainee 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 confession statement pertaining to the similar case at Page Nos.134 to 137 of the booklet, it is clear that the detaining authority, by providing illegible copies of the documents, has taken away the rights of detainee to effectively defend herself against her 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 BCDFGISSSV No.214/2020 dated 23.03.2020 passed by the second respondent is set aside. The detainee, namely, Menaka, female, aged about 49 years, wife of Arumugam, is directed to be released forthwith unless her detention is required in connection with any other case.

Sd/-

Assistant Registrar

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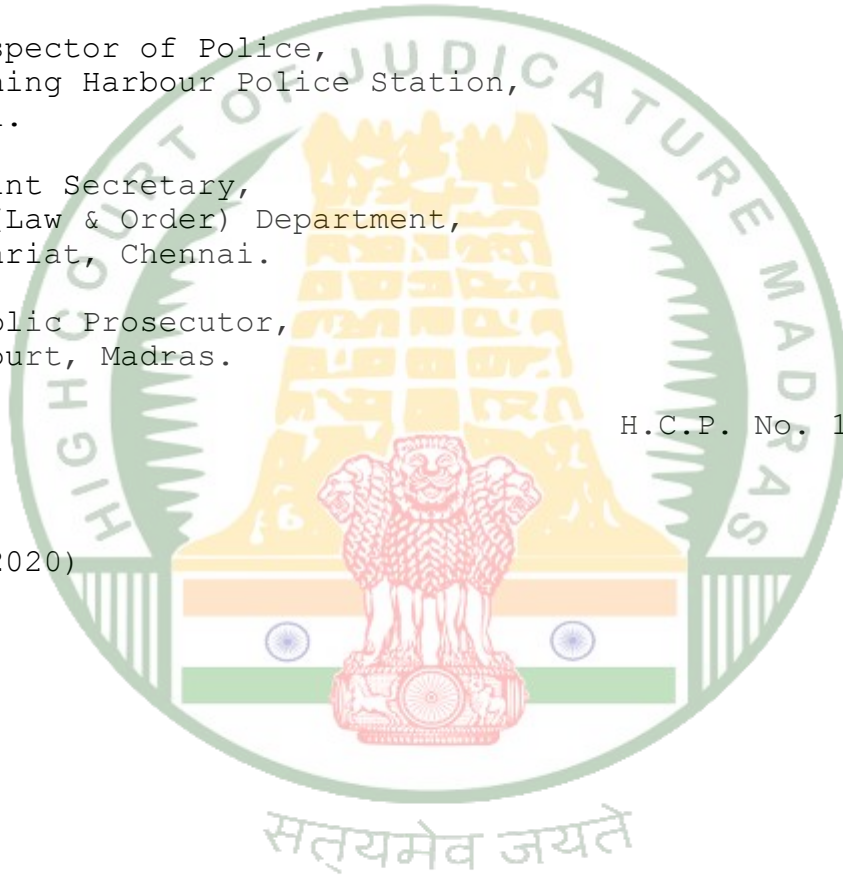
Sub Assistant Registrar

To

1. The Secretary to Government
Home, Prohibition and Excise Department
Fort St.George, Chennai 600 009.
2. The Commissioner of Police,
Greater Chennai, Veppery, Chennai.
3. The Superintendent of Prison,
Special Prison for Women,
Central Prison, Puzhal, Chennai.
4. The Inspector of Police,
N4 Fishing Harbour Police Station,
Chennai.
5. The Joint Secretary,
Public(Law & Order) Department,
Secretariat, Chennai.
6. The Public Prosecutor,
High Court, Madras.

H.C.P. No. 1224 of 2020

SSI (CO)
RV (07/12/2020)



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