

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.12.2020

Coram

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

H.C.P. No. 1312 of 2020

Bommiyammal

...Petitioner

Vs.

1. State rep. by the Secretary to Government,
Home, Prohibition & Excise Department,
Secretariat, Chennai 600 009.
2. The Commissioner of Police,
Salem City, Salem.
3. The Superintendent of Prison,
Central Prison, Salem District.
4. The Inspector of Police,
Kitchipalayam Police Station, Salem District.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Habeas Corpus, calling for the records in C.M.P. No.36/GOONDA/SALEM CITY/2020 dated 12.06.2020, on the file of the Commissioner of Police, Salem City, Salem, the 2nd respondent herein and quash the same as illegal and direct the respondents to produce the detenu Manikandan @ Thamba Manikandan, S/o. Arumugam, aged about 27 years, now confined at Central Prison, Salem, before this Court and set him at liberty.

For Petitioner .. Mr.S.Rajanikanth
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 Manikandan @ Thamba Manikandan, S/o. Arumugam, aged about 27 years, who is the detenu. The detenu has been detained by the second respondent by his order in C.M.P. No.36/GOONDA/SALEM CITY/2020 dated

12.06.2020, 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 observation mahazar pertaining to second adverse case at Page No.31 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 C.M.P. No.36/GOONDA/SALEM CITY/2020, dated 12.06.2020, passed by the second respondent is set aside. The detenu, namely, Manikandan @ Thamba Manikandan, S/o. Arumugam, aged about 27 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-

Assistant Registrar(cs-vii)
//True Copy//

mmi/ssm

Sub Assistant Registrar

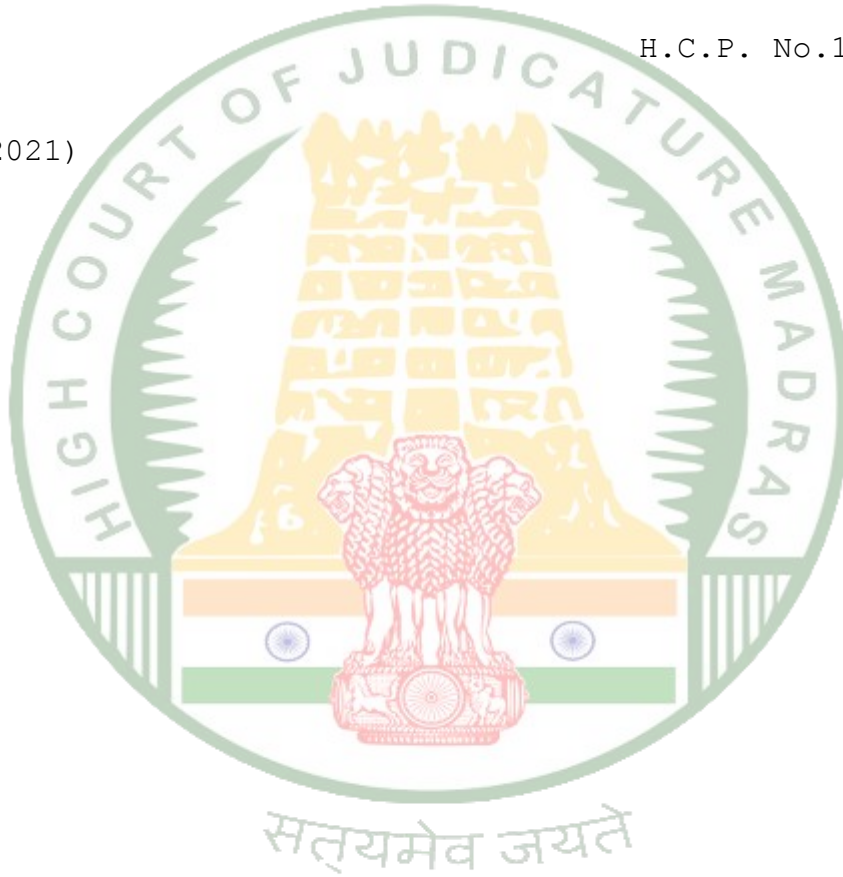
To

1. The Secretary to Government,
Home, Prohibition & Excise Department,
Secretariat, Chennai 600 009.
2. The Joint Secretary to Government,
Public(Law & Order), Fort saint George, Chennai-9.

3. The Commissioner of Police,
Salem City, Salem.
4. The Superintendent of Prison,
Central Prison, Salem District.
5. The Inspector of Police,
Kitchipalayam Police Station, Salem District.
6. The Public Prosecutor,
High Court, Madras.

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