

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.12.2020

CORAM

THE HON'BLE MR. JUSTICE M.M.SUNDRESH
AND
THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

H.C.P. NO. 1689 OF 2020

Rani

...Petitioner

-vs-

- 1.State of Tamil Nadu
rep. by its Secretary to Government,
Department of Home, Prohibition and Excise,
Secretariat, Fort St. George, Chennai.
- 2.The District Magistrate and
District Collector,
Salem District, Salem
- 3.The Superintendent of Police,
Salem District,
Salem.
- 4.The Inspector of Police,
Mettur Police Station,
Salem District.
- 5.The Superintendent of Prison,
Central Prison,
Salem.

...Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of habeas corpus to call for the records in Detention Order in CMP.No.05/Goonda/C2/2020 dated 18.06.2020 on the file of the second respondent and quash the same as illegal and consequently, direct the respondents herein to produce the detenu Kodeeswaran @ Krishnamoorthy, aged about 34 years, S/o.Nachimuthu now confined in Central Prison, Salem and set him at liberty.

For Petitioner : M/s.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 Kodeeswaran @ Krishnamoorthy, aged 34 years, who is the detenu. The detenu has been detained by the second respondent in connection with order in CMP.No.05/Goonda/C2/2020 dated 18.06.2020, holding him to be a "Goondas", 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 lab report pertaining to adverse case and arrest intimation at Page No.60 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 CMP.No.05/Goonda/C2/2020 dated 18.06.2020 passed by the second respondent is set aside. The detenu, namely, Kodeeswaran @ Krishnamoorthy, aged about 34 years, S/o.Nachimuthu, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-

Assistant Registrar

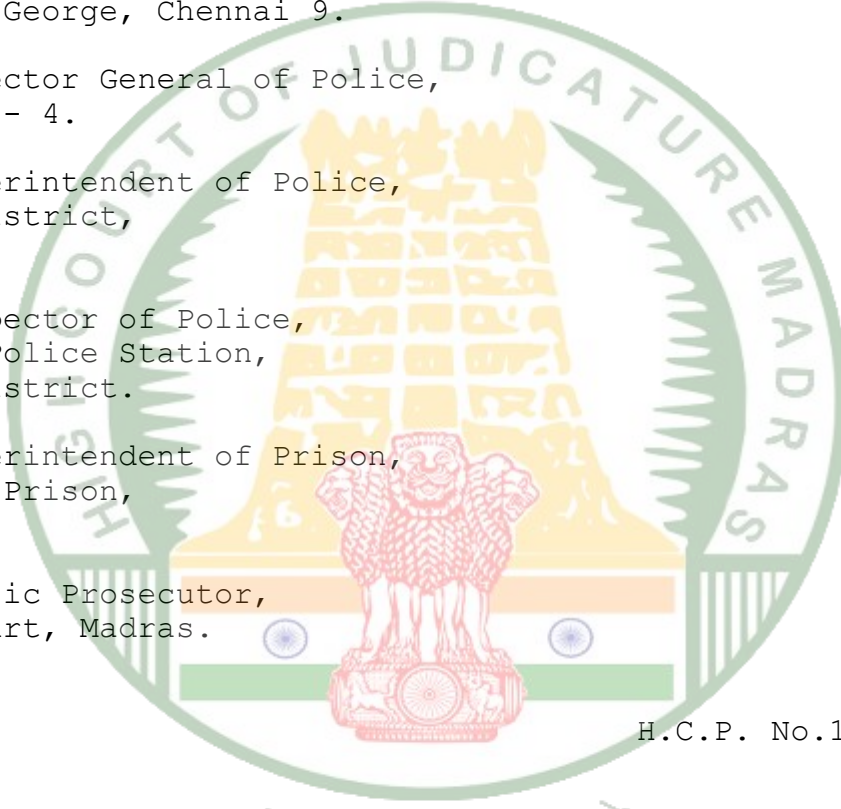
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Sub Assistant Registrar

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To

- 1.The Secretary to Government,
Department of Home, Prohibition and Excise,
Secretariat, Fort St. George, Chennai.
- 2.The District Magistrate and
District Collector,
Salem District, Salem
- 3.The Joint Secretary to Govt,
Public (Law & Order),
Fort St.George, Chennai 9.
- 4.The Director General of Police,
Chennai - 4.
- 5.The Superintendent of Police,
Salem District,
Salem.
- 6.The Inspector of Police,
Mettur Police Station,
Salem District.
- 7.The Superintendent of Prison,
Central Prison,
Salem.
- 8.The Public Prosecutor,
High Court, Madras.



H.C.P. No.1689 of 2020

AJS (CO)
KKV/29/12/2020

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