

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.12.2020

Coram

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

H.C.P. No. 1996 of 2020

Gnanasekaran

...Petitioner/Father of
the detune

-vs-

1. The State of Tamil Nadu
rep. by its Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 9.
2. The District Collector and District Magistrate,
Cuddalore District,
Cuddalore.
3. The Superintendent of Police,
Cuddalore District, Cuddalore.
4. The Superintendent,
Central Prison, Cuddalore - 4.
5. The Inspector of Police,
Cuddalore O.T. Police Station,
Cuddalore District.

...Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of habeas corpus calling for the records in C3/D.O./60/2020 dated 17.05.2020 on the file of the 2nd respondent and quash the same as illegal and consequently direct the respondents to produce the petitioner's son Prabha @ Prabhakaran, son of Gnanasekaran, aged about 27 years, who now detained in Central Prison, Cuddalore before this Court and set him at liberty.

For Petitioner : Mr.K.Gandhi Kumar

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 father of Prabha @ Prabhakaran, son of Gnanasekaran, aged about 27 years, who is the detenu. The detenu has been detained by the second respondent by his order in C3/D.O./60/2020 dated 17.05.2020, 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. Among other grounds, the detention order is mainly attacked on the ground that there is a delay in passing the order of detention. Learned counsel appearing for the petitioner strongly contended that though the detenu was arrested on 16.03.2020, the detention order was passed only on 17.05.2020 i.e., after a considerable delay of nearly two months. Therefore, the detention order has to be set aside.

4. As seen from the grounds of detention, it is clear that though the detenu was arrested on 16.03.2020, the order of detention came to be passed only on 17.05.2020 and hence, there is an abnormal delay in passing the order of Detention, which caused prejudice to the interest of the detenu.

5. We have gone through the entire materials placed on record. There is no satisfactory explanation offered by the Detaining Authority for the delay in passing the order of detention. Hence the impugned order of detention is liable to be set aside.

6. In the result, the Habeas Corpus Petition is allowed and the order of detention in C3/D.O./60/2020 dated 17.05.2020, passed by the second respondent is set aside. The detenu, namely, Prabha @ Prabhakaran, son of Gnanasekaran, aged about 27 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-
Asst.Registrar (J)

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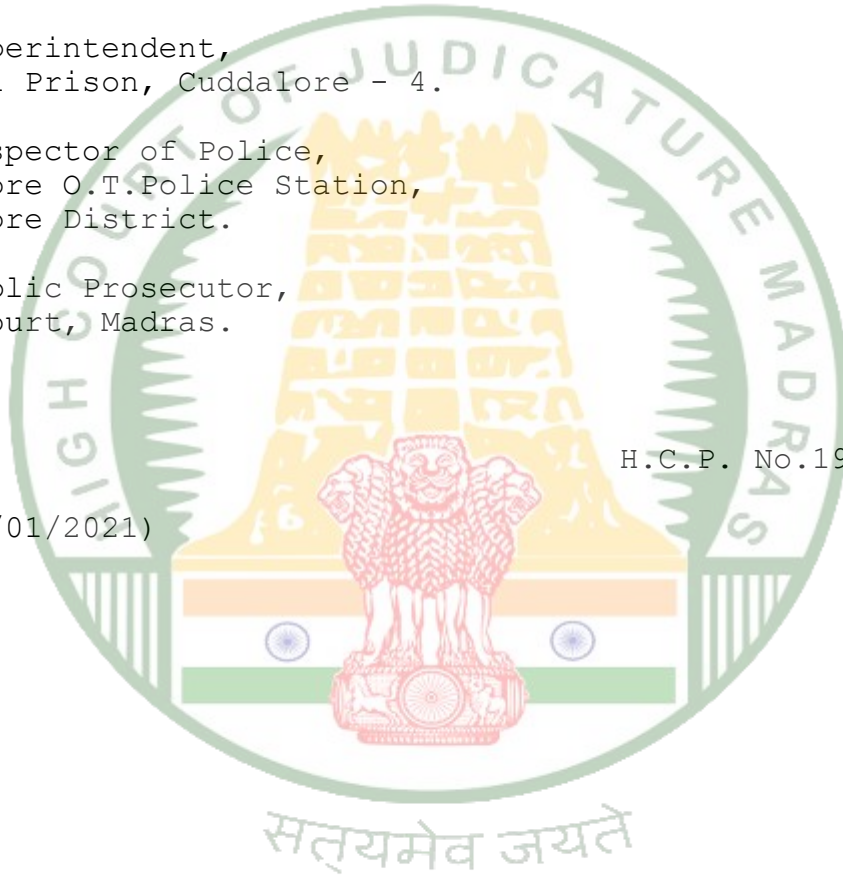
Sub Asst. Registrar

To

1. The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 9.
2. The District Collector and District Magistrate,
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Cuddalore.
3. The Superintendent of Police,
Cuddalore District, Cuddalore.
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5. The Inspector of Police,
Cuddalore O.T. Police Station,
Cuddalore District.
6. The Public Prosecutor,
High Court, Madras.

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