

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.01.2020

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH
and
THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

H.C.P.No.2211 of 2019

Sivagami ..Petitioner/Wife of the Detenue

Vs

1.The Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai 600 009.

2.The Commissioner of Police,
Greater Chennai, Chennai.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus to call for the records in connection with the order of detention passed by the second respondent dated 21.05.2019 in No.265/BCDFGISSSV/2019 against the husband of the petitioner Thamba @ Kamal, M/A, 30 son of Annamalai, who is confined at Central Prison, Puzhal, Chennai and to set aside the same and consequently direct the respondents to produce the detenu before the Court and set him at liberty.

For Petitioner : Mr.K.S.Kaviarasu

For Respondents : Mr.R.Prathap Kumar
Additional Public Prosecutor

ORDER

[Order of this Court was made by R.SUBBIAH, J]

Petitioner is the wife of the detenu viz., Thamba @ Kamal, S/o.Annamalai, aged 30 years, who has been branded as a 'Goonda' under the Tamil Nadu Act 14 of 1982 and detained under order of second respondent passed in No.265/BCDFGISSSV/2019 dated 21.05.2019.

2. The detenu came to adverse notice in the following cases:

Sl.No.	Police Station and Crime No.	Section of Law
1.	P-1 Pulianthope Police Station, Crime No.627/2018	341, 294(b), 323, 392, 397, 336, 506(ii) IPC
2.	P-1 Pulianthope Police Station, Crime No.198/2019	147, 148, 341, 294(b), 392, 397, 336, 506 (ii) IPC

The alleged ground case has been registered against the detenu in Crime No.287 of 2019 on the file of P-1 Pulianthope Police Station for offences u/s. 147, 148, 341, 294(b), 323, 392, 397, 336, 506(ii) IPC. Aggrieved by the order of detention, the present writ petition has been filed.

3. Heard learned counsel for petitioner and learned Additional Public Prosecutor appearing for respondents. Perused the materials on record.

4. Learned counsel for petitioner submits that page No.153 in the booklet furnished to the detenu is illegible. Learned counsel informs that the same adversely has affected his right of making an effective representation.

5. When the documents furnished to the detenu are illegible, opportunity of clear understanding and making effective representation in keeping with Article 22(5) of the Constitution of India on such understanding is lost and the detenu is deprived thereof. This would vitiate the order of detention. For the aforesaid reasons, this Court would allow the present petition.

Accordingly, the Habeas Corpus Petition is allowed and the detention order passed by the second respondent against the detenu viz., Thamba @ Kamal, S/o.Annamalai, in No.265/BCDFGISSSV/2019 dated 21.05.2019, is quashed. The above named detenu is ordered to be set at liberty forthwith, unless his custody is required in connection with any other case.

Sd/-
Assistant Registrar(C.S.VI)

/True Copy/

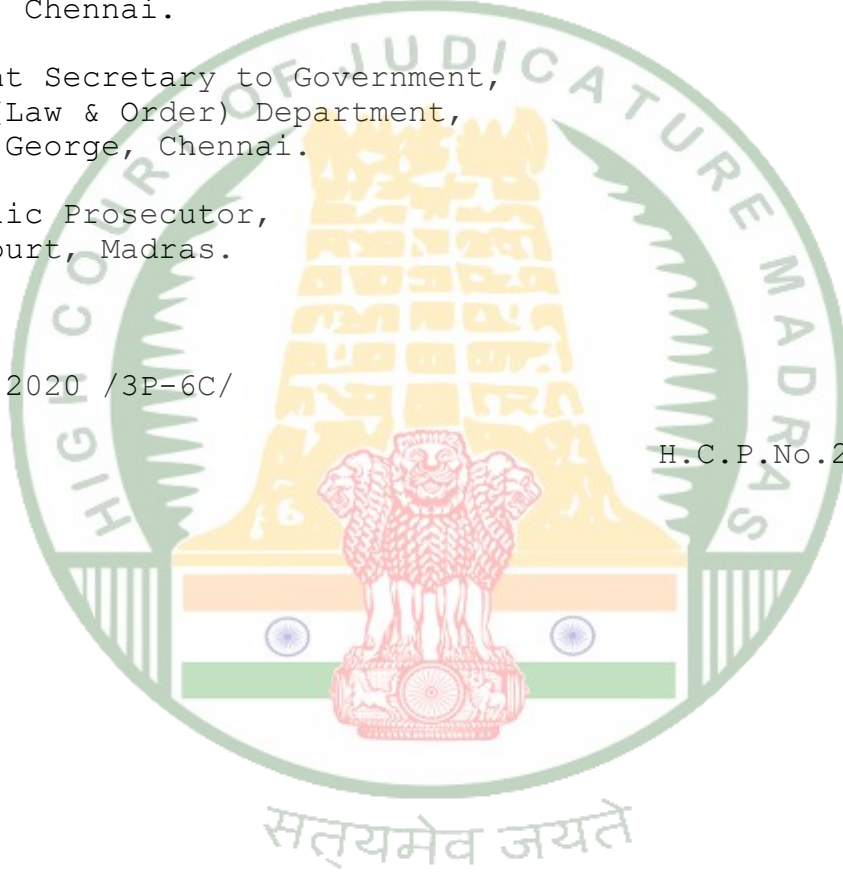
Sub Assistant Registrar

To

- 1.The Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai 600 009.
- 2.The Commissioner of Police,
Greater Chennai, Chennai.
- 3.The Superintendent, Central Prison,
Puzhal, Chennai.
- 4.The Joint Secretary to Government,
Public (Law & Order) Department,
Fort St.George, Chennai.
- 5.The Public Prosecutor,
High Court, Madras.

AKM/09.03.2020 /3P-6C/

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