

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.02.2020

CORAM

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

H.C.P.No.2245 of 2019

Manikandan

... Petitioner

Vs

1.The State of Tamil Nadu,
rep. by its Secretary to Government,
Department of Prohibition and Excise (Home),
Fort St. George, Chennai 600 009.

2.The Commissioner of Police,
Chennai City Police,
Greater Chennai,
Commissioner Office,
Vepery, Chennai-600 007.

.... Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus to call for the records in No.635/BCDFGISSSV/2019 dated 01.10.2019 on the file of second respondent herein and set aside the same as illegal and produce the detenu Manikandan, son of Suresh, aged about 22 years, who is confined at Central Prison, Puzhal, Chennai before this Court and set him at liberty.

For Petitioner : Mr.Ilayaraja Kandasamy

For Respondents: Mr.R.Prathap Kumar

Additional Public Prosecutor

O R D E R

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

Petitioner is the detenu viz., Manikandan, S/o.Suresh, aged about 22 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 Memo No.635/BCDFGISSSV/2019 dated 01.10.2019.

2. The alleged ground case has been registered against the detenu in Crime No.585 of 2019 on the file of R-1 Mambalam Police Station for offences u/s. 341, 294(b), 336, 397, 427 and 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 the Detaining Authority has stated in the Arrest Memo at page No.106 of the Booklet furnished to the detenu that the arrest in respect of the above case, has been intimated to the mother of the detenu namely, Lakshmi, W/o.Suresh and an endorsement by the authorities has been made to that effect, but the detaining authority has not furnished any materials to substantiate the fact of serving the Arrest Memo on the said Lakshmi or any other relatives of the detenu by Thapal or Registered Post. Learned counsel informs that the same adversely has affected his right of making an effective representation.

5. It is a case, among other grounds, where the learned counsel for the petitioner would urge that the arrest of the detenu in the ground case has not been intimated to the family members or the relatives or to the known persons of the detenu as per the procedure laid down. As evidenced from the document in page 106 of the Booklet furnished to us, a mere endorsement is made by the authorities to the effect that the arrest intimation has been informed to one Lakshmi, mother of the arrested person, but no materials have been furnished to substantiate that the said intimation was sent through a Thapal or Registered post or as per the procedure laid down. 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., Manikandan, S/o.Suresh in Memo No.635/BCDFGISSSV/2019 dated 01.10.2019, is set aside. The above named detenu is ordered to be set at liberty forthwith, unless his custody is required in connection with any other cases.

-s/d-

Assistant Registrar

True copy

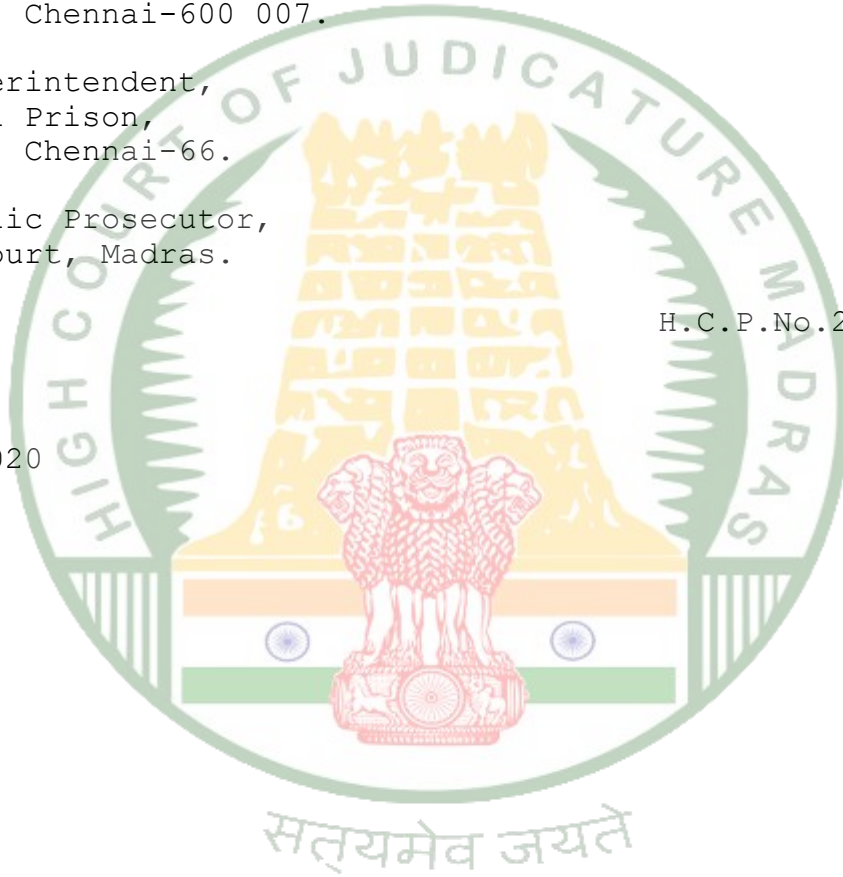
Sub-Assistant Registrar

To

- 1.The Secretary to Government
The State of Tamil Nadu,
Department of Prohibition and Excise (Home),
Fort St. George, Chennai 600 009.
- 2.The Commissioner of Police,
Chennai City Police,
Greater Chennai,
Commissioner Office,
Vepery, Chennai-600 007.
- 3.The Superintendent,
Central Prison,
Puzhal, Chennai-66.
- 4.The Public Prosecutor,
High Court, Madras.

H.C.P.No.2245 of 2019

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