

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.01.2020

CORAM

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

H.C.P.No.2270 of 2019

Sumithra ... Petitioner/Cousing of the detenue

Vs

1.State of Tamil Nadu,
rep. by the Secretary,
Home, Prohibition and Excise Department,
Fort St. George, Chennai-600 009.

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

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus calling for the records, relating to detention order in Memo No.534/BCDFGISSSV/2019 dated 27.08.2019 passed by the second respondent under the Tamil Nadu Act 14 of 1982 and set aside the same and direct the respondent to produce the petitioner's Cousin Gopi, S/o.Govindaraj, aged about 28 years, the detenue, now confined in Central Prison, Puzhal, Chennai before this Court and set the petitioner's cousin Gopi, S/o.Govindaraj, aged about 28 years, the detenue herein at liberty.

For Petitioner : Mr.K.Bommuraj

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

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

Petitioner is the cousin of the detenu viz. Gopi, aged 28 years, S/o.Govindaraj, who has been branded as a 'Goonda' under the Tamil Nadu Act 14 of 1982 and detained under order of second respondent passed in BCDFGISSSV No.534/2019 dated 27.08.2019.

2. The alleged ground case has been registered against the detenu in Crime No.412 of 2019 on the file of S-8 Adambakkam Police Station for offences u/s. 341, 323, 392,

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 in the case cited as similar, the offence alleged was under Sections 341, 294(b), 392, 397, 336, 427 and 506(ii) IPC., whereas the ground case has been registered against the detenu under Sections 341, 323, 392, 397, 427 and 506(ii) IPC. The non-consideration of such aspect reflects non-application of mind.

5. We have heard learned Additional Public Prosecutor on the above submissions.

6. As rightly submitted by learned counsel for petitioner, the similar case referred to and relied upon by the Detaining Authority to infer that the detenu would be granted bail in the ground case, is not a similar case. Hence, we find that the order of detention suffers from non-application of mind.

Accordingly, the Habeas Corpus Petition is allowed and the detention order passed by the second respondent against the detenu viz., Gopi, S/o.Govindaraj, in BCDFGISSSV No.534/2019 dated 27.08.2019, 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 (CS-VI)

//True Copy//

Sub Assistant Registrar

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To

1.The Secretary,
State of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St. George, Chennai-600 009.

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

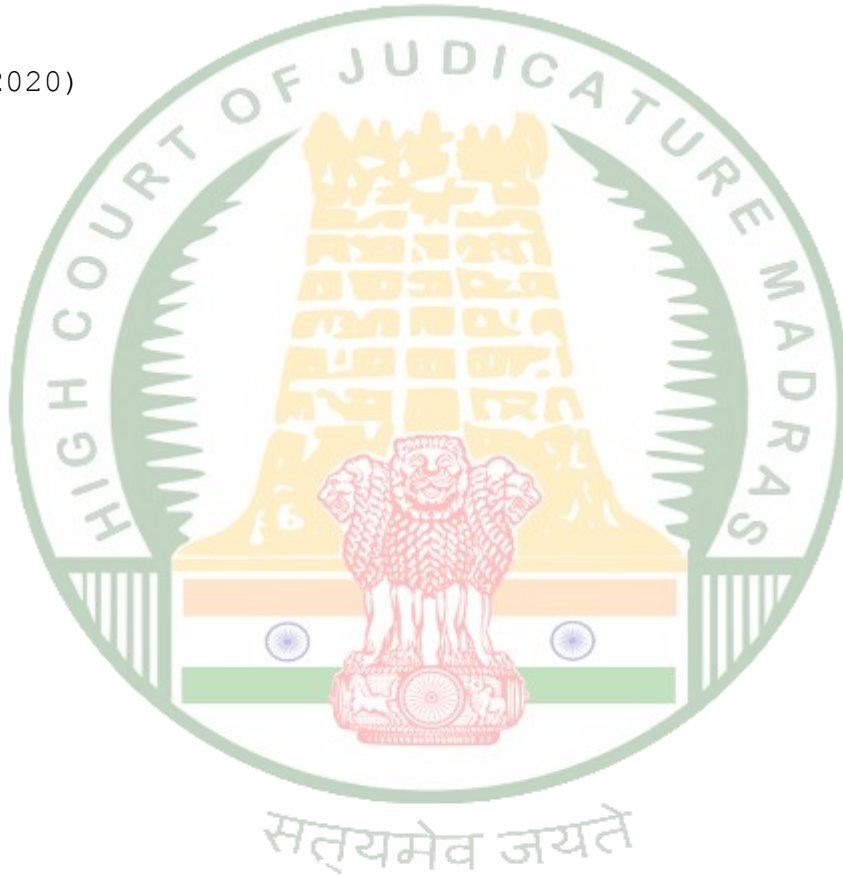
3.The Public Prosecutor,
High Court, Madras.

4. The Superintendent of Police,
Central Prison,
Puzhal, Chennai.

5. The Joint Secretary to Government of Tamilnadu,
Public (law & Order), Fort Saint George,
Chennai 9.

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NMI (CO)
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