

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.02.2020

CORAM

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

H.C.P.NO.2361 OF 2019

Desammal
W/o.Rajan @ Rajendran

... Petitioner

Vs

1. The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George, Chennai - 600009.

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

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus calling for the records in connection with the order of detention passed by second respondent in BCDFGISSSV No.569 of 2019 dated 06.09.2019 against the petitioner's son viz., Karthik @ Kulla Karthik, Male, aged about 24 years, S/o.Raja @ Rajendran, who is confined at Special Sub Jail, Poonamallee, Chennai and set aside the same and direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner : Mr.M.Illiyas

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 mother of the detenu viz., Karthik @ Kulla Karthik S/o.Raja @ Rajendran, aged 24 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 BCDFGISSSV No.569 of 2019 dated 06.09.2019.

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

Sl.No.	Police Station and Crime No.	Section of Law
1.	M5 Ennore Police Station, No.175/2019	341, 294(b), 324 & 506(ii) IPC
2.	M5 Ennore Police Station, No.216/2019	341, 294(b), 397 & 506(ii) IPC

The alleged ground case has been registered against the detenu in Crime No.637 of 2019 on the file of H5 New Washermenpet Police Station for offences u/s.147, 148, 302 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 page Nos.239 to 242 i.e. confession statement of accused in the similar case, in the booklet furnished to the detenu are 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., Karthik @ Kulla Karthik S/o.Raja @ Rajendran, in BCDFGISSSV No.569 of 2019 dated 06.09.2019, 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 case.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

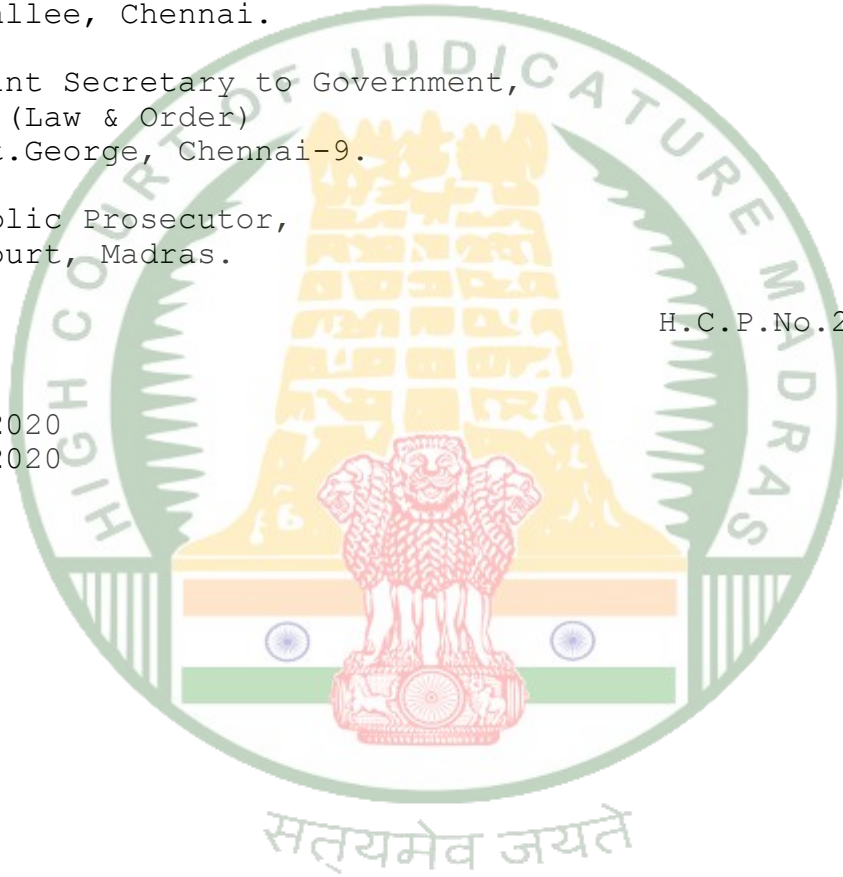
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To

1. The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George, Chennai - 600009.
2. The Commissioner of Police,
Greater Chennai,
Vepery, Chennai.
3. The Superintendent,
Special Sub Jail,
Poonamallee, Chennai.
4. The Joint Secretary to Government,
Public (Law & Order)
Fort St.George, Chennai-9.
5. The Public Prosecutor,
High Court, Madras.

H.C.P.No.2361 of 2019

PM(CO)
CS/20/03/2020
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