

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.02.2020

CORAM

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

H.C.P.No.2295 of 2019

Rizwan

... Petitioner

Vs

State rep. by

1.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Fort St. George,
Chennai-9.

2.The District Collector and
District Magistrate,
Krishnagiri District,
Krishnagiri.

... 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 S.C. No.20/2019 dated 26.09.2019 on the file of the District Collector and District Magistrate, Krishnagiri District, Krishnagiri, the second respondent herein and quash the same as illegal and direct the respondents to produce the detenu Sadam, S/o.Rizwan, aged about 22 years, now confined at Central Prison, Salem, before this Court and set him at liberty.

For Petitioner : Mr.S.Rajanikanth

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 father of the detenu viz. Sadam, S/o.Rizan, aged 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 S.C. No.20/2019 dated 26.09.2019.

2. The alleged ground case has been registered against the detenu in Crime No.339 of 2019 on the file of Hosur Town Police Station for offences u/s. 392 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 Section 392 r/w.397 IPC., whereas the ground case has been registered against the detenu under Section 392 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., Sadam, S/o. Rizwan in S.C. No.20/2019 dated 26.09.2019, 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//

सत्यमेव जयते Sub Assistant Registrar

vga

To

1. The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Fort St. George,
Chennai-9.

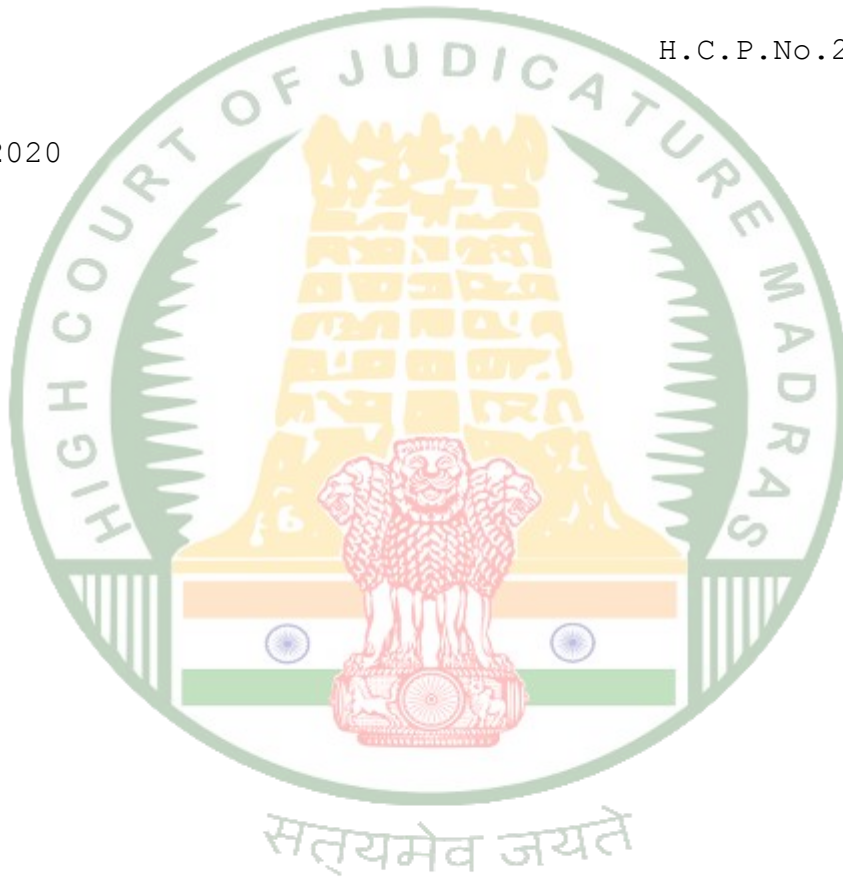
2.The District Collector and
District Magistrate,
Krishnagiri District,
Krishnagiri.

3.The Superintendent,
Central Prison,
Salem.

4.The Public Prosecutor,
High Court, Madras.

H.C.P.No.2295 of 2019

rk(co)
nr 05/03/2020



WEB COPY