

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.2342 of 2019

Yasther

... Petitioner

Vs

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

2.Commissioner of Police,
Greater Chennai.

... 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 connection with the order of detention passed by the second respondent dated 01.10.2019 in Memo No.637/BCDFGSSSV/2019 against the petitioner husband Jayanthinathan, male, aged 29 years, S/o.Ramesh Kumar, who is confined at Central Prison, Puzhal, 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.S.Senthilvel

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 wife of the detenu viz., Jayanthinathan, S/o.Ramesh Kumar, aged about 29 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.637/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.103 of the Booklet furnished to the detenu that the arrest in respect of the above case, has been intimated to the wife of the detenu namely, Yasther, the petitioner herein 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 Yasther 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 103 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 the petitioner herein, viz. Yasther, wife 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., Jayanthinathan, S/o. Ramesh Kumar in Memo No.637/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.

Sd/-
Assistant Registrar (CO)

//True copy//

Sub Assistant Registrar

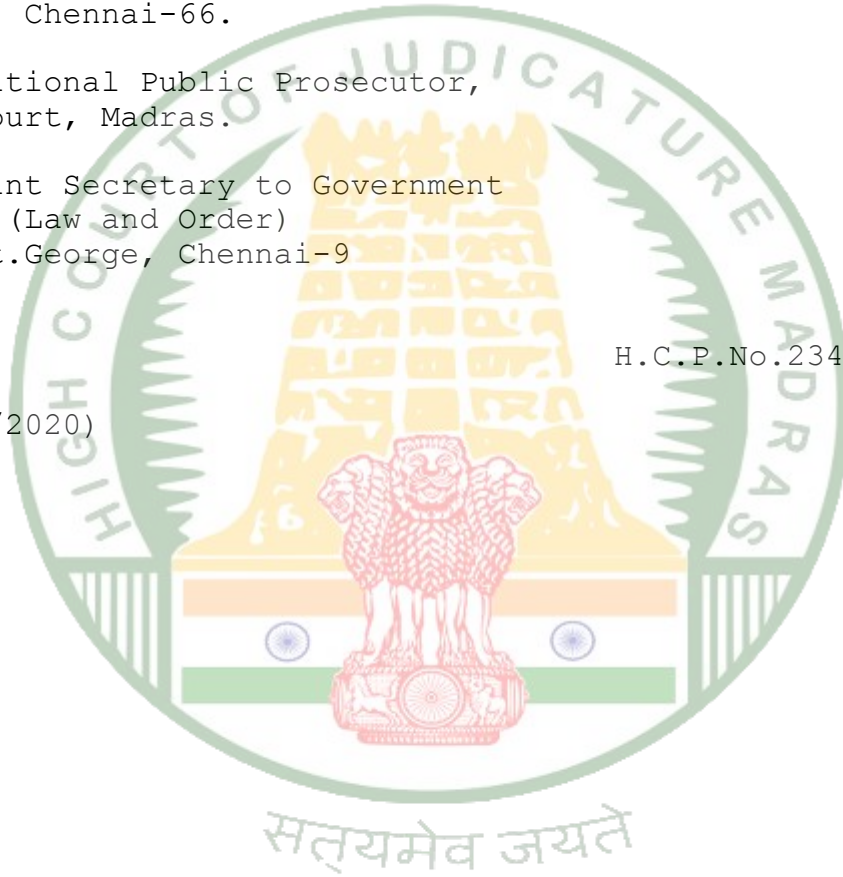
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To

- 1.The Secretary to the Government,
Home Prohibition and Excise Department,
Secretariat, Chennai 600 009.
- 2.Commissioner of Police,
Greater Chennai.
- 3.The Superintendent,
Central Prison,
Puzhal, Chennai-66.
- 4.The Additional Public Prosecutor,
High Court, Madras.
5. The Joint Secretary to Government
Public (Law and Order)
Fort St.George, Chennai-9

RR(CO)
GMY(18/03/2020)

H.C.P.No.2342 of 2019



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