

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.02.2020

CORAM

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

H.C.P.No.2442 of 2019

Araayee

W/o.Alagarswamy

... Petitioner

Vs

1.The Secretary to the Government, (Home),  
Prohibition and Excise Department,  
Secretariat, Chennai - 600009.

2.The Commissioner of Police,  
Chennai Police,  
Office of the Commissioner of Police,  
(Goondas Section),  
Egmore, 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 leading to the detention of the petitioner's son viz., Vijay @ Thalapathy Vijay S/o.Alagarswamy, aged 24 years, is presently lodged at Central Prison, Puzhal, Chennai and has been detained under Act 14/82 as a Goonda vide detention order dated 12.09.2019 on the file of second respondent herein, made in No.585/BCDFGISSSV/2019, quash the same and consequently, direct the respondents herein to produce the body and person of the said detenu before this Court and thereafter, set him at liberty from Central Prison, Puzhal, Chennai.

For Petitioner : Mr.J.Senthamil Arasu

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., Vijay @ Thalapathy Vijay S/o.Alagarswamy, 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 No.585/BCDFGISSSV/2019 dated 12.09.2019.

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

| Sl.N<br>o. | Police Station and Crime No.                       | Section of law             |
|------------|----------------------------------------------------|----------------------------|
| 1.         | M4 Red Hills Police Station,<br>Crime No.288/2019  | 397 IPC                    |
| 2.         | M1 Madhavaram Police Station,<br>Crime No.501/2019 | 147, 148, 448<br>& 302 IPC |

The alleged ground case has been registered against the detenu in Crime No.503 of 2019 on the file of M1 Madhavaram Police Station, for offences u/s.147, 148, 341, 294(b), 323, 395, 397, 336, 427 & 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 No.73 i.e. Arrest Report of second adverse case, in the booklet furnished to the detenu is 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., Vijay @ Thalopathy Vijay S/o.Alagarswamy, in No.585/BCDFGISSSV/2019 dated 12.09.2019, 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

//True Copy//

Sub Assistant Registrar

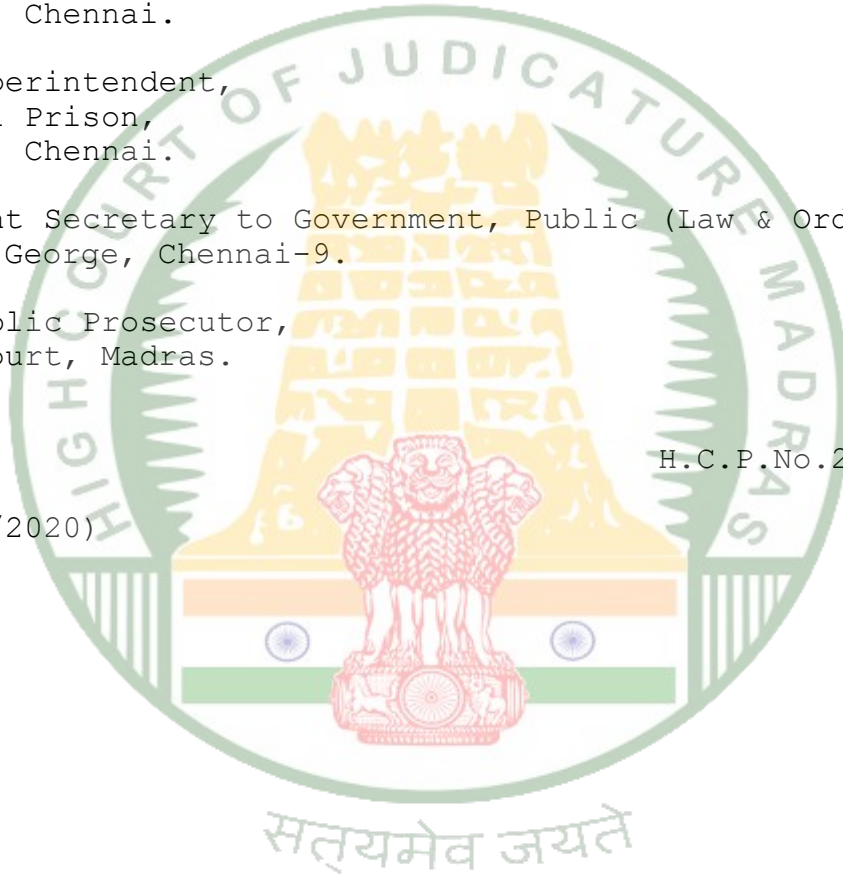
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To

1. The Secretary to the Government, (Home),  
Prohibition and Excise Department,  
Secretariat, Chennai - 600009.
2. The Commissioner of Police,  
Chennai Police,  
Office of the Commissioner of Police,  
(Goondas Section),  
Egmore, Chennai.
3. The Superintendent,  
Central Prison,  
Puzhal, 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.2442 of 2019

RGN (CO)  
RMP (16/07/2020)



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