

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.2425 of 2019

Thavamani

... Petitioner

Vs

1. The State of Tamil Nadu,
rep. by its Secretary to Government,
Department of Prohibition and Excise (Home),
Fort St. George, Chennai 600 009.
2. The District Collector and District Magistrate,
Nagapattinam District,
Nagapattinam.

... 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 C.O.C. No.56/2019 dated 14.10.2019 on the file of second respondent herein and set aside the same as illegal and produce the detenu Charles, son of Thavamani, aged about 26 years, who is confined at Central Prison, Tiruchirapalli before this Court and set him at liberty.

For Petitioner : Mr.Ilayaraja Kandasamy
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 detenu viz., Charles, S/o.Thavamani, aged about 26 years, who has been branded as a 'Bootlegger' under the Tamil Nadu Act 14 of 1982 and detained under order of second respondent passed in C.O.C. No.56/2019 dated 14.10.2019.

2. The alleged ground case has been registered against the detenu in Crime No.588 of 2019 on the file of Nagapattinam Prohibition Enforcement Wing for offences u/s. 4(1)(i), 4(1)(aaa) r/w 4 (1-A) TNP Act 1937. 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.49 of the Booklet furnished to the detenu that the arrest in respect of the above case, has been intimated to the mother of the detenu namely, Selvi, W/o.Thavamani 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 Selvi 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 49 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 one Selvi, mother 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., Charles, S/o.Thavamani in C.O.C. No.56/2019 dated 14.10.2019, 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.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

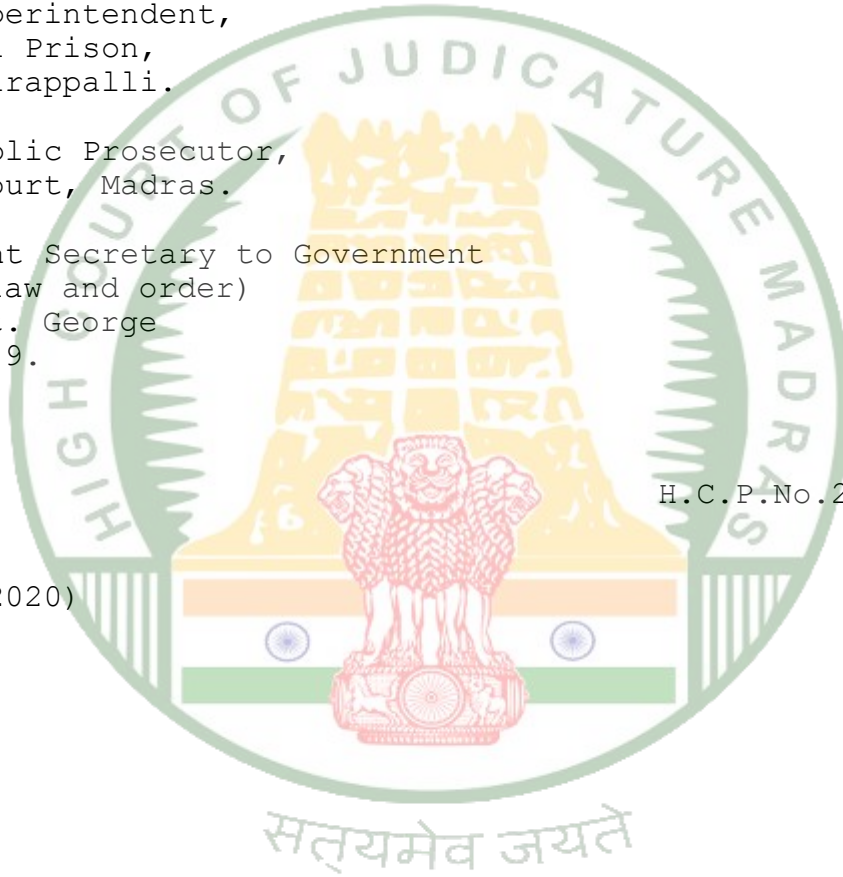
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To

1. The Secretary to Government,
State of Tamil Nadu,
rep. by its Secretary to Government,
Department of Prohibition and Excise (Home),
Fort St. George, Chennai 600 009.
2. The District Collector and District Magistrate,
Nagapattinam District,
Nagapattinam.
3. The Superintendent,
Central Prison,
Tiruchirappalli.
4. The Public Prosecutor,
High Court, Madras.
5. The Joint Secretary to Government
Public (law and order)
Fort. St. George
Chennai 9.

PA (CO)
SP (18/05/2020)

H.C.P.No.2425 of 2019



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