

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.02.2020

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH
and
THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

H.C.P.No.2479 of 2019

Kavitha

W/o.Chinnapparaj

... Petitioner/Wife of Detenu

Vs

1.State of Tamil Nadu
represented by its
Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600009.

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

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus calling for the entire records relating to petitioner's husband's detention under Tamil Nadu Act 14 of 1982 vide detention order dated 15.10.2019 on the file of second respondent herein made in proceedings C3/D.O/81/2019 and quash the same as illegal and consequently, direct the respondents herein to produce the said petitioner's husband viz., Chinnapparaj S/o.Rajangam, aged 35 years, before this Court, who is confined at Central Prison, Cuddalore and set him at liberty.

For Petitioner : Mr.C.C.Chellappan

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. Chinnapparaj S/o.Rajangam, aged 35, who has been branded as a 'Bootlegger' under the Tamil Nadu Act 14 of 1982 and detained under order of second respondent passed in C3/D.O/81/2019 dated 15.10.2019.

2. The alleged ground case has been registered against the detenu in Crime No.514 of 2019 on the file of Chidambaram PEW for offences u/s.4(1)(aaa) & 4(1-A) r/w 14A (Transport) of Tamil Nadu Prohibition Act, 1937 r/w 5, 6 & 13 of Tamil Nadu Rectified Spirit Rules, 2000 r/w 468, 471 and 420 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 despite informing that the detenu has not filed any bail application, the detaining authority has informed a real possibility of the detenu coming out on bail by filing a bail application since in a similar case bail was granted by learned District Sessions Judge, Cuddalore, in CrI.M.P.No.6292 of 2018 in respect of Crime No.592 of 2018 on the file of Vridhachalam P.E.Wing for offences u/s.4(1)(aaa), 4(1-A) TNP Act r/w 5, 6 & 7 of Tamil Nadu Rectified Spirit Rules, 2000. Learned counsel submits that in the case cited as similar, offences under the Indian Penal Code are not alleged whereas the ground case was registered for offences under the Indian Penal Code also. 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, in the similar case, relied on by the detaining authority in arriving at a subjective satisfaction, offences under the Indian Penal Code are not alleged whereas the ground case was registered for offences under the Indian Penal Code also. 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., Chinnapparaj S/o.Rajangam, aged 35, in C3/D.O/81/2019 dated 15.10.2019, 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 case.

Sd/-
Assistant Registrar (CS-III)

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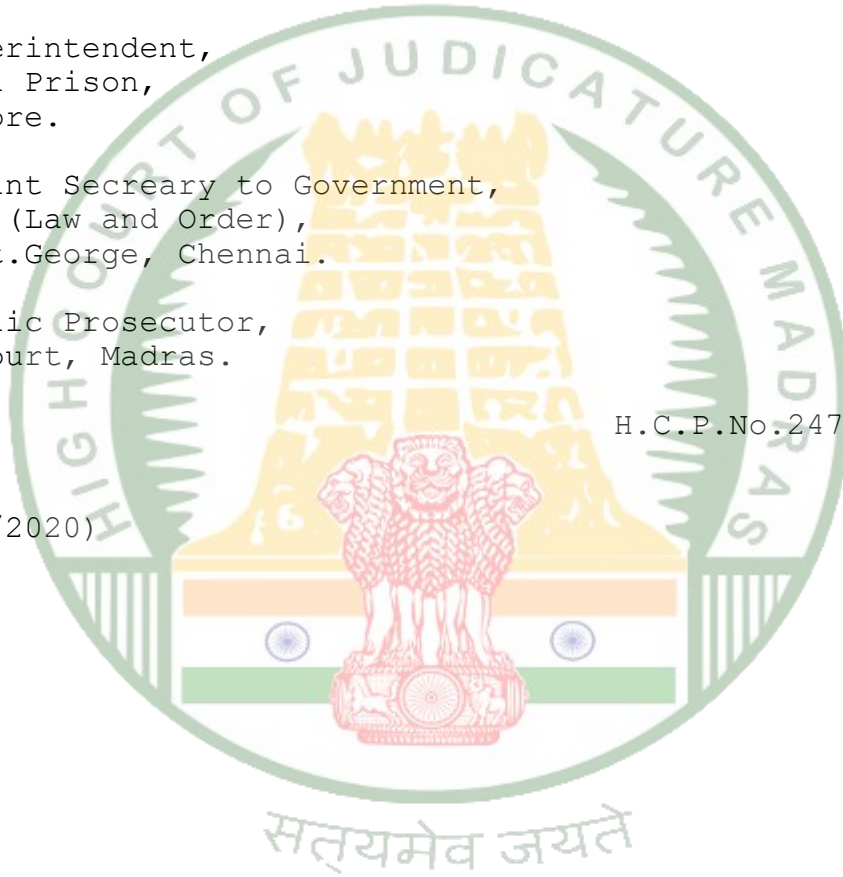
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To

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600009.
- 2.The District Collector and District Magistrate,
Cuddalore District,
Cuddalore.
- 3.The Superintendent,
Central Prison,
Cuddalore.
4. The Joint Secreary to Government,
Public (Law and Order),
Fort St.George, Chennai.
- 5.The Public Prosecutor,
High Court, Madras.

H.C.P.No.2479 of 2019

VG II(CO)
GMY(31/07/2020)



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