

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.02.2020

CORAM

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

H.C.P.No.2552 of 2019

Kamalakkannan

... Petitioner

Vs

1. The State of Tamil Nadu,
rep. by its Secretary to Government (Home)
Prohibition and Excise Department,
Secretariat, Chennai - 9.
 2. The District Collector and District Magistrate,
Cuddalore District.
- ... 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 05.11.2019 in C3/D.O/95/2019 dated 05.11.2019 against the petitioner's son namely Surya, aged about 22 years, S/o.Kamalakkannan who is confined at Central Prison, Cuddalore and set aside the same and direct the respondents to produce the detenu before this Court and set him at liberty forthwith.

For Petitioner: Mr.R.Nalliyappan

For Respondents: Mr.R.Prathap Kumar
Additional Public Prosecutor

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O R D E R

[Order of this Court was made by R.SUBBIAH, J]

Petitioner is the father of the detenu viz., Surya, S/o.Kamalakkannan, aged about 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 C3/D.O./95/2019 dated 05.11.2019.

2. The alleged ground case has been registered against the detenu in Crime No.306 of 2019 on the file of Chidambaram Town Police Station for offences u/s. 147, 148, 452, 294(b), 323, 324, 392, 397, 506(ii) and 307 IPC r/w Section 3(1) of Tamil Nadu Property (Prevention of Damage and Loss) Act 1992. 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.61 of the Booklet furnished to the detenu that the arrest in respect of the above case, has been intimated to the friend of the detenu namely, Tamilzhasan, S/o.Kathavarayan 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 Tamilzhasan 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 61 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 Tamilzhasan, the friend of the arrested person through SMS over Cell Phone No.9896783870, 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. Kamalakkannan in C3/D.O/95/2019 dated 05.11.2019, 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

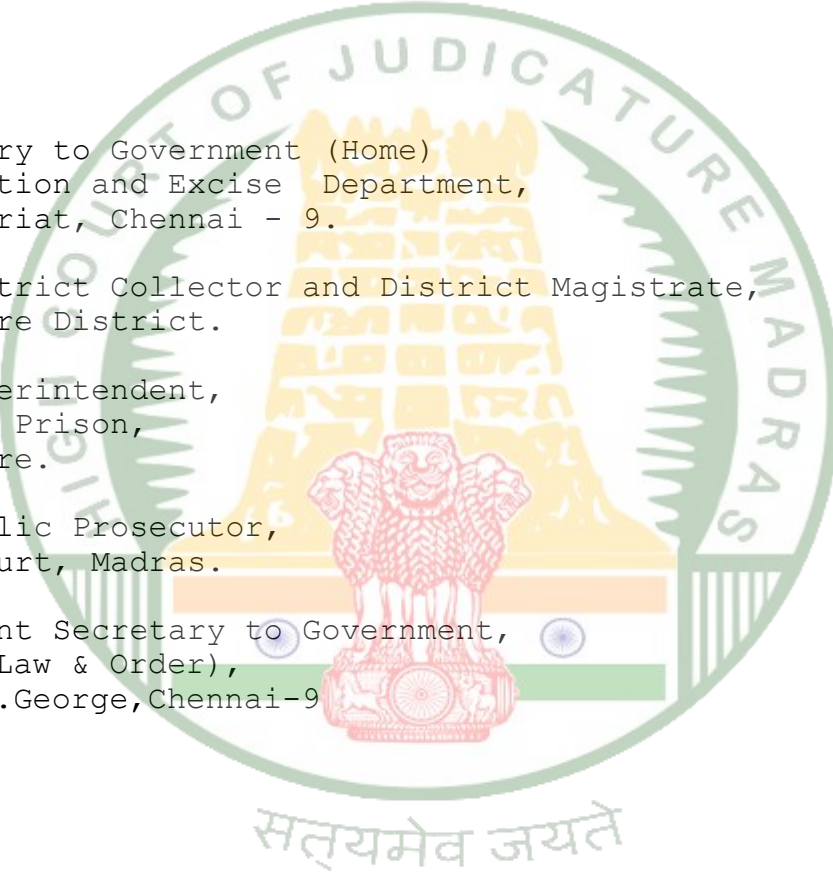
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Sub Assistant Registrar

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To

1. Secretary to Government (Home)
Prohibition and Excise Department,
Secretariat, Chennai - 9.
2. The District Collector and District Magistrate,
Cuddalore District.
3. The Superintendent,
Central Prison,
Cuddalore.
4. The Public Prosecutor,
High Court, Madras.
5. The Joint Secretary to Government,
Public(Law & Order),
Fort St.George, Chennai-9



H.C.P.No.2552 of 2019

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SS (CO)
GS (03/06/2020)