

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.03.2020

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
and
THE HONOURABLE MRS.JUSTICE R.HEMALATHA

H.C.P.No.2610 of 2019
and
Crl.M.P.No.2617 of 2020

R.Devi, F/A.23 years,
W/o.Sarath @ Sarathkumar,
South Street, Vadapathi,
Veppur Taluk,
Cuddalore District. Petitioner/Wife of the Detenue

-vs-

1.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Fort St. George,
Chennai - 600 009.

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

Habeas Corpus Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, to call for the entire records in relating to the petitioner's husband detention under Tamil Nadu 14 of 1982 vide detention order, dated 14.11.2019 on the file of the second respondent herein made in proceedings C3/D.O./99/2019, quash the same as illegal and consequently direct the respondents herein to produce the petitioner's husband namely Sarath @ Sarathkumar, S/o.Rayapillai, aged 27 years before this Court and set the petitioner's husband at liberty from detention, now the petitioner's husband detained at Central Prison, Cuddalore.

For Petitioner :Mr.R.Sasikumar

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

O R D E R

(Order of the Court was delivered by N.KIRUBAKARAN, J.)

The petitioner's husband Sarath @ Sarathkumar,
S/o.Rayapillai, aged 27 years has been detained under Goondas

Act by virtue of detention order in C3/D.O./99/2019 passed by the 2nd respondent on 14.11.2019. The said order is being challenged before this Court.

2.The petitioner's husband has two adverse cases in Cr.No.10/2019 dated 04.01.2019 under Section.4(1)(aaa) & 4(1-A) of Tamil Nadu Prohibition Act 1937 and Sections.5, 6 & 7 of Tamil Nadu Rectified Spirit Rules 2000 and Cr.No.551/2019 dated 24.09.2019 under Section.4(1)(aaa), 4(1-A) & 14(A) of Tamil Nadu Prohibition Act 1937 and one ground case in Cr.No.637/2019 under Section.4(1)(aaa), 4(1-A) & 14(A) [Transport] of Tamil Nadu Prohibition Act 1937.

3.Heard Mr.R.Sasikumar, learned counsel appearing on behalf of the petitioner and Mr.R.Prathap Kumar, learned Additional Public Prosecutor.

4.The learned counsel appearing on behalf of the petitioner would submit that in the ground case, the petitioner's husband/detenu was arrested on 01.11.2019. However, the arrest was not informed either to the petitioner or to the next relative. Further there is a delay in considering the representation of the detenu. However, the learned Public Prosecutor opposed the case of the petitioner.

5.It is evident from the records that the petitioner's husband/detenu had been arrested on 01.11.2019. As per Section 50A of Cr.P.C., next relative of the detenu should be informed about the arrest. Though the respondent would submit that the detenu's wife/petitioner has been informed about the arrest through SMS, there is no proof for having sent the said SMS to the petitioner and therefore, the detention order is vitiated and this petition is liable to be allowed.

6.Accordingly, the Habeas Corpus Petition is allowed and the detention order passed by the second respondent on 14.11.2019 in C3/D.O./99/2019 is hereby set aside. The detenu, viz., Mr.Sarath @ Sarathkumar, S/o.Mr.Rayapillai, aged 27 years, who is now confined at Central Prison, Cuddalore is directed to be set at liberty forthwith unless his presence is required in connection with any other case. Consequently, connected Miscellaneous Petition is also closed.

Sd/-

Assistant Registrar (AD I MDU)

//True Copy//

Sub Assistant Registrar

To

1.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Fort St. George,
Chennai - 600 009.

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

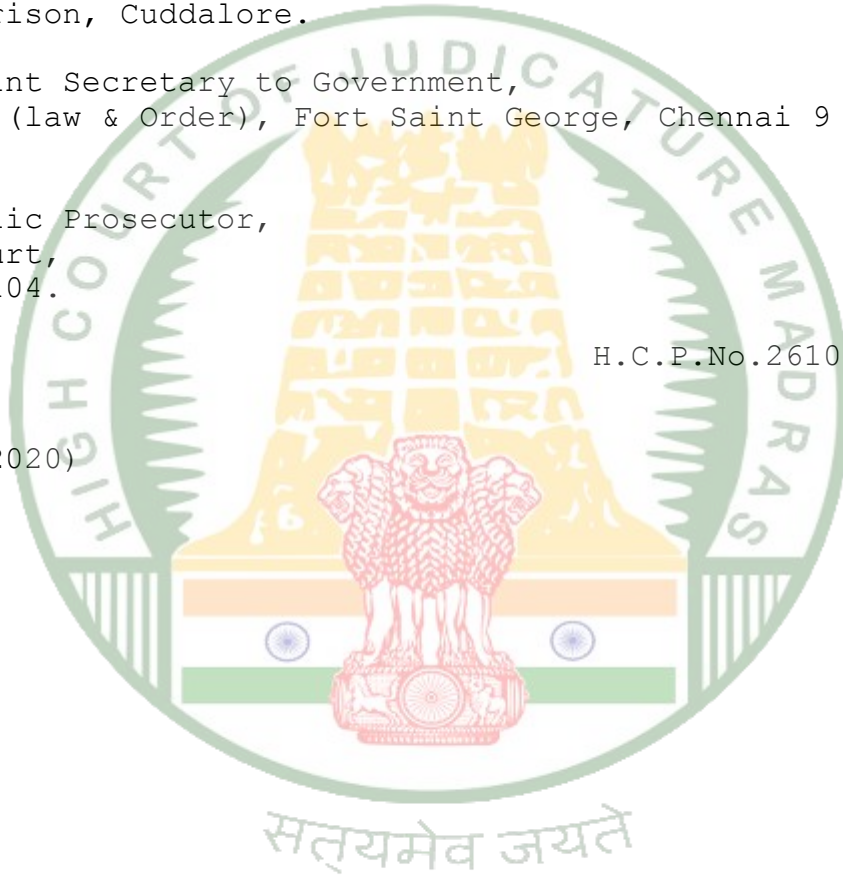
3.The Superintendent,
Central Prison, Cuddalore.

4. The Joint Secretary to Government,
Public (law & Order), Fort Saint George, Chennai 9

5.The Public Prosecutor,
High Court,
Madras 104.

H.C.P.No.2610 of 2019

KJ(CO)
GN(16/07/2020)



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