

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.06.2020

CORAM :

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

H.C.P.No.2780 of 2019

K.Nirmala ... Petitioner/Wife of Detenue

Vs

1.The Government of Tamil Nadu,
rep by its Secretary,
Home, Prohibition and Excise (XVI) Dept.,
Fort St.George,
Chennai - 600009.

2.The Commissioner of Police,
Greater Chennai,
Office of Commissioner of Police,
Chennai. ... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Habeas Corpus, calling for the records in detention order Memo.663/BCDFGISSSV/2019 dated 12.10.2019 on the file of the 2nd respondent and quash the same and direct the respondents herein to produce the body of the petitioner husband Kesavamoorthy, aged about 30 years, the detenu now confined in Central Prison, Puzhal before this Hon'ble Court and set him at liberty.

For Petitioner : Mr.M.J.Senthil Kumar.

For Respondents: Mrs.M.Prabhavathi,
Additional Public Prosecutor.

O R D E R

(Order of the court was made by N.KIRUBAKARAN.J.,)

The matter was heard through "Video Conferencing".

2.The petitioner's husband has been detained under GOONDAS Act, branding him as 'GOONDA' by the second respondent in Memo.663/BCDFGISSSV/2019 dated 12.10.2019 and the said order is challenged is before this Court.

3.It is seen from the records that the Petitioner's husband has got a case in Cr.No.524 of 2019 for the alleged offence under Section 302 of Indian Penal Code. The learned Counsel for the petitioner would submit that there is only one case against the detenu and there is a delay in passing the detention order. He submitted that the detenu was arrested on 11.09.2019 whereas the detention order was passed only on 12.10.2019 and seeks for allowing this petition.

4.However, Mrs.M.Prabhavathi, learned Additional Public Prosecutor submitted that the case against the detenu is for the offence punishable under Section 302 of Indian Penal Code and therefore, no leniency should be shown to the detenu.

5.Heard the learned Counsel for the Petitioner and the learned Additional Public Prosecutor.

6.Taking into consideration of the fact that the detenu was arrested on 11.09.2019 whereas the detention order was passed on 12.10.2019 and there is a delay in passing the detention order, the detention order is liable to be quashed.

7.Accordingly, the detention order passed by the second respondent in Memo.663/BCDFGISSSV/2019 dated 12.10.2019 is quashed and the Habeas Corpus Petition is allowed. The detenu is directed to be set at liberty forthwith unless his presence is required in connection with any other case.

Sd/-

सत्यमेव जयते
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

1.The Secretary,
Government of Tamil Nadu,
Home, Prohibition and Excise (XVI) Dept.,
Fort St.George,
Chennai - 600009.

2.The Commissioner of Police,
Greater Chennai,
Office of Commissioner of Police,
Chennai.

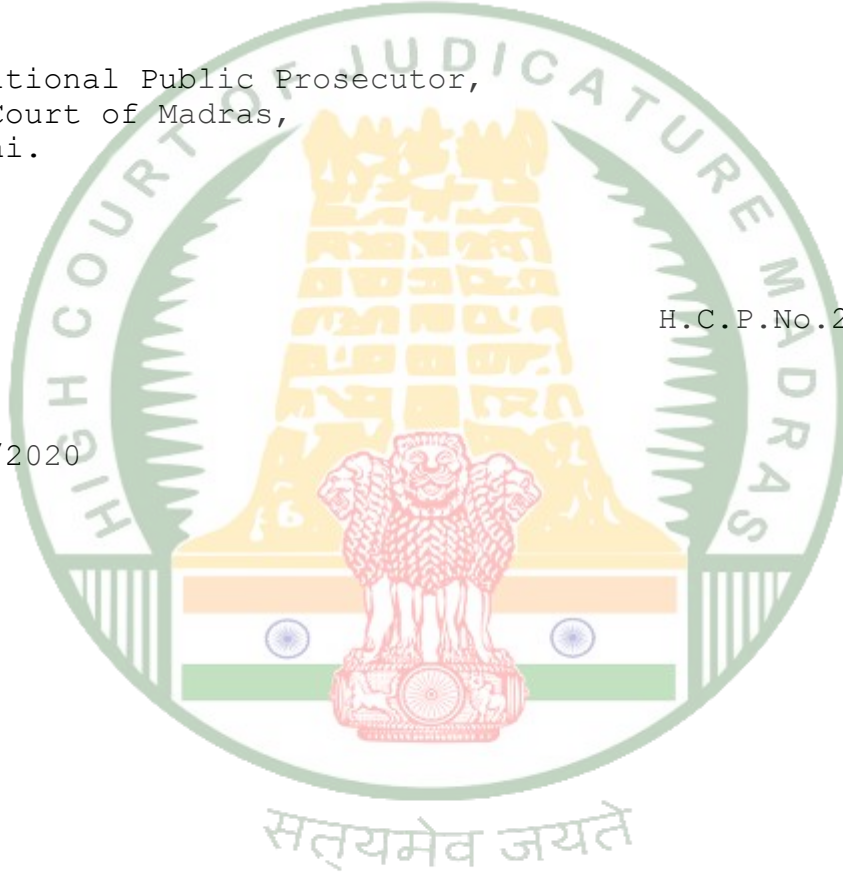
3.The Superintendent,
Central Prison, Puzhal.

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

5.The Additional Public Prosecutor,
High Court of Madras,
Chennai.

H.C.P.No.2780 of 2019

mr[co]
srg 03/06/2020



WEB COPY