

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.05.2020

Coram

The Hon'ble Mr. Justice M.M.SUNDRESH
and
The Hon'ble Ms. Justice P.T.ASHA

H.C.P.No.2820 of 2019

Kanadasan ... Petitioner/Brother of the Detenu

-vs-

1.The Secretary to the Government,
Home, Prohibition Excise Department,
Secretariat, Chennai - 600 009.

2.District Collector and
District Magistrate,
Kancheepuram District,
Kancheepuram.

... Respondents

Petition filed under Article 226 of the Constitution of India, 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 23.10.2019 in B.D.F.G.I.S.S.S.V.No.74/2019 against the petitioner's brother Prem @ Premkumar, male aged 28 years S/o.Dharmalingam, who is confined at Central Prison, Puzhal, Chennai and set aside the same and direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner .. Mr.M.Prakash
For Respondents .. Mr.R.Prathap Kumar,
Addl. Public Prosecutor

ORDER

[Order of the Court was made by M.M.SUNDRESH, J.]

The petitioner is the brother of Prem @ Premkumar, male, aged 28 years, S/o.Dharmalingam who is the detenu. The detenu has been detained by the second respondent by his order in B.D.F.G.I.S.S.S.V.No.74/2019 dated 23.10.2019 holding him to be a "Goonda", as contemplated under Section 2(f) of the Tamil Nadu Act 14 of 1982. The said order is under challenge in this Habeas Corpus Petition.

2. We have heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondents. We have also perused the records produced by the Detaining Authority.

3. Though learned counsel for the petitioner has raised several other grounds to assail the order of detention, he has mainly focused his argument on the ground that the detaining authority, while detaining the detenu, has not furnished the legible copies of the document relied on by him and the surrender order at Page No.91 of the booklet has not been properly translated in vernacular language. This deprived the detenu from making effective representation. Therefore, on this sole ground, the detention order is liable to be quashed.

4. On consideration of the submissions made on either side and upon perusal of the documents available on record, it is clear that the detaining authority, by providing illegible copy of the document, has taken away the rights of detenu to effectively defend himself against his detention. Apart from that, the remand order has not been properly translated in vernacular language. Thus the impugned detention order is liable to be set aside on this ground.

5. In the result, the Habeas Corpus Petition is allowed and the order of detention in B.D.F.G.I.S.S.S.V.No.74/2019 dated 23.10.2019, passed by the second respondent is set aside. The detenu, namely, Prem @ Premkumar, male, aged 28 years, S/o.Dharmalingam is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

सत्यमेव जयते

Sub Assistant Registrar

mmi/ms

To

1.The Secretary to the Government,
Home, Prohibition Excise Department,
Secretariat, Chennai - 600 009.

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

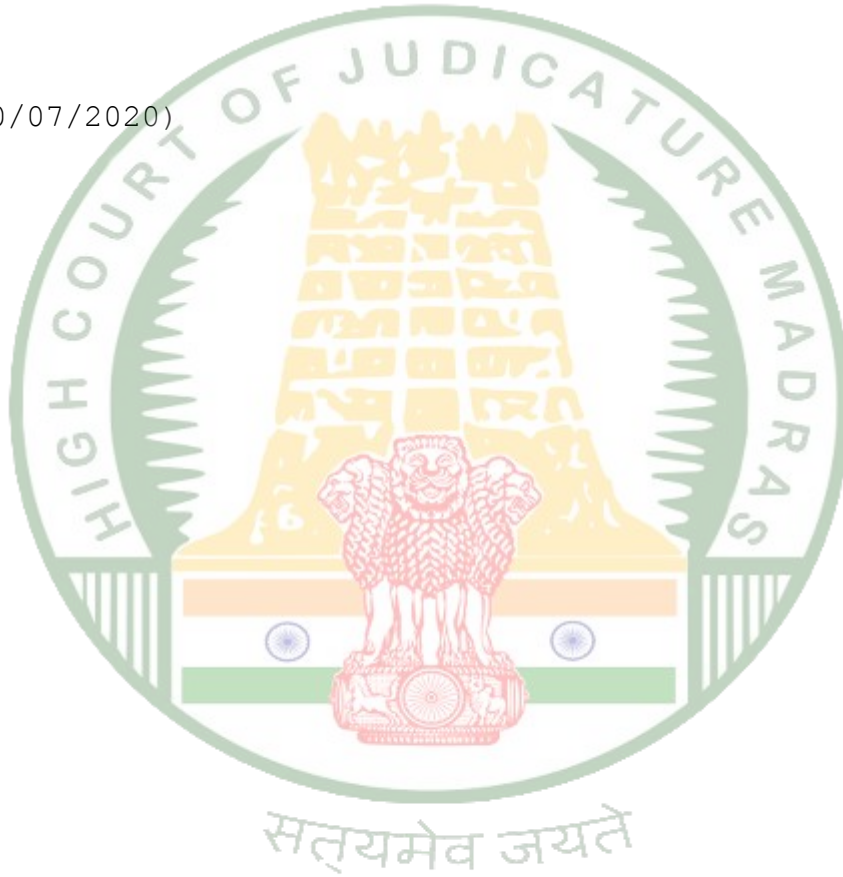
3. The Joint Secretary to Government,
Public (law & Order),
Fort Saint George,
Chennai 9

4. The Public Prosecutor,
High Court, Madras.

5. The Superintendent,
Central Prison,
Puzhal, Chennai.

H.C.P.No.2820 of 2019

PVS (CO)
GN (30/07/2020)



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