

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.07.2020

Coram

The Hon'ble Mr. Justice M.M.SUNDRESH
and
The Hon'ble Mr. Justice D.KRISHNAKUMAR

H.C.P. No. 2834 of 2019

Sekar .. Petitioner/Father of detenue
Vs.

1. State of Tamil Nadu,
Rep. By the Secretary, Home,
Prohibition and Excise Department,
Fort St. George, Chennai 600 009.
2. The District Collector and District
Magistrate of Cuddalore District
at Cuddalore. .. Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of habeas corpus to call for the records relating to the detention order in C3/D.O/87/2019, dated 19.10.2019 passed by the 2nd respondent under the Tamilnadu Act 14 of 1982 and set aside the same and direct the respondent to produce the petitioner's son Kathirvan @ Kumbakonam Kathir, the detenu, now confined in Central Prison, Cuddalore, before this Court and set the petitioner's Son Kathirvan @ Kumbakonam Kathir aged about 27 years the detenu herein set him at liberty.

For Petitioner : Mr.K.Vivekanandhan

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 father of Kathirvan @ Kumbakonam Kathir aged about 27 years, who is the detenu. The detenu has been detained by the second respondent by his order in C3/D.O/87/2019, dated 19.10.2019, holding him to be a "Goonda", as contemplated under Section 2(f) of 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 and we have also perused the records carefully.

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 documents relied on by him. 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, especially the F.I.R. in the second adverse case at Page No.30 of the booklet, it is clear that the detaining authority, by providing illegible copies of the documents, has taken away the rights of detenu to effectively defend himself against his detention. 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 C3/D.O/87/2019, dated 19.10.2019 passed by the second respondent is set aside. The detenu, namely, Kathirvan @ Kumbakonam Kathir aged about 27 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-
Assistant Registrar(CS I)

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

To

1. The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai 600 009.
2. The District Collector and District
Magistrate of Cuddalore District
at Cuddalore.

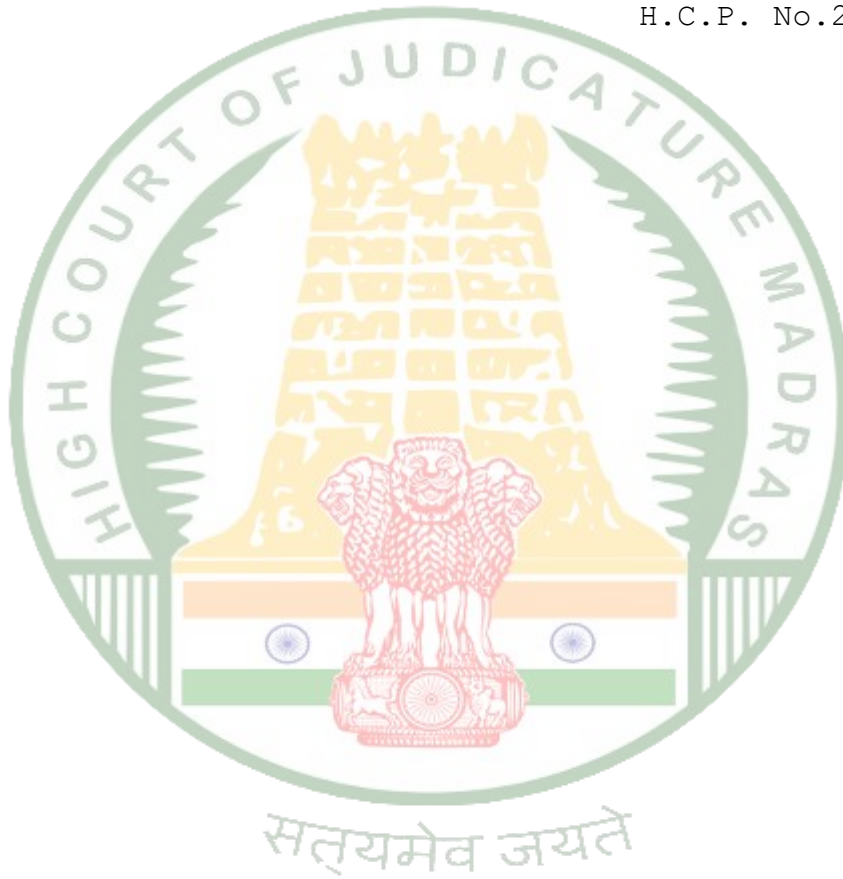
3.The Superintendent,
Central Prison, Cuddalore.

4.The Joint Secretary to Government,
Public (L&O) Fort St.George,
Chennai.

5.The Public Prosecutor,
High Court, Madras.

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