

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:03.07.2020

CORAM

THE HON'BLE MR. JUSTICE M.M.SUNDRESH
AND
THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

H.C.P. NO. 2901 OF 2019

Kanniammal

...Petitioner/Mother of the detenue

-vs-

- 1.The Secretary to Government,
Government of India,
Ministry of Home Affairs,
(Department of Internal Security)
North Block,
New Delhi - 110 001.
- 2.The Additional Secretary to Government (Home),
Government of Puducherry,
Chief Secretariat,
Gubert Avenue,
Puducherry - 605 001.
- 3.The District Magistrate cum Authorised Officer,
1st Floor, Vazhadvavoor Road,
Kavundanpalayam,
Puducherry - 605 009.

...Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of habeas corpus to call for the records in No.14/DM/RO/D2/PPASAA/2019 dated 12.11.2019 on the file of the third respondent herein and quash the same as illegal and consequently direct the respondents to produce the detenu Thiru.Sivakumar @ Track Siva @ Siva, son of Veerappan, aged about 32 years, who now confined in Central Prison, Kalapet, Pudhucherry, before this Court and set him at liberty.

For Petitioner : Mr.K.Gandhikumar

For Respondents : Mr.D.Bharatha Chakravarthy,
Public Prosecutor (Pondy)

ORDER

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

The petitioner is the mother of Sivakumar @ Track Siva @ Siva, son of Veerappan, aged about 32 years, who is the detenu. The detenu has been detained by the third respondent by his order in No.14/DM/RO/D2/PPASAA/2019 dated 12.11.2019, holding him to be a "Dangerous Person and Goonda", as contemplated under the provisions of Puducherry Prevention of Anti Social Activities Act, 2008 (Act No.10 of 2010). 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 Public Prosecutor (Puducherry) appearing for the respondents. We have also perused the records produced by the Detaining Authority.

3. Though several grounds have been raised, learned counsel for the petitioner mainly focused his arguments on the ground that the additional information placed before the detaining authority including the bail petition copies have not been furnished to the detenu, which caused great prejudice to the detenu and he has been prevented from making an effective representation for consideration of the authorities concerned. Therefore, the impugned order of detention is vitiated in law.

4. A perusal of the booklet would go to show that the additional information placed before the detaining authority including the bail petition copies have not been enclosed in the booklet furnished to the detenu. Therefore, non-furnishing of the above materials would obviously deprive of his opportunity to make effective representation and hence, we are of the opinion that the detention order is liable to be quashed on this ground.

5. Accordingly, the impugned detention order passed by the third respondent, detaining the detenu, namely, Sivakumar @ Track Siva @ Siva son of Veerappan, made in No.14/DM/RO/D2/PPASAA/2019 dated 12.11.2019 is quashed and the Habeas Corpus Petition is allowed. The above named detenu, who is detained in the Central Prison, Kalapet, Puducherry is ordered to be set at liberty forthwith, unless his custody is required in connection with any other case.

Sd/-

Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

raa/mmi/ssm

To

1.The Secretary to Government,
Government of India,
Ministry of Home Affairs,
(Department of Internal Security)
North Block,
New Delhi - 110 001.

2.The Additional Secretary to Government (Home),
Government of Puducherry,
Chief Secretariat,
Gubert Avenue,
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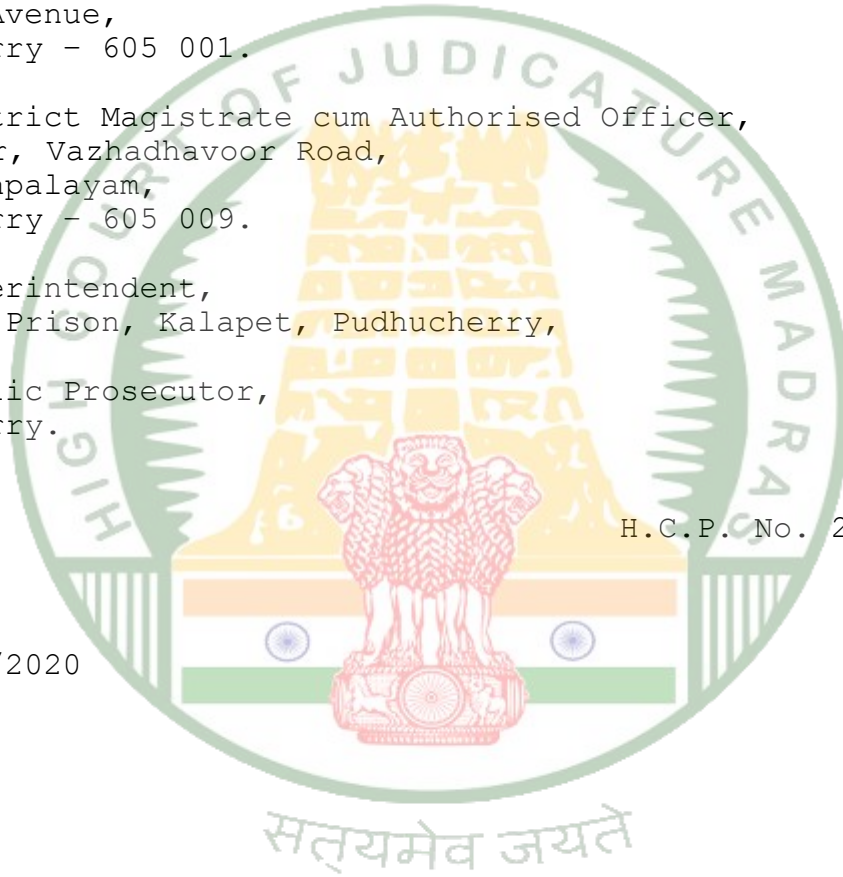
3.The District Magistrate cum Authorised Officer,
1st Floor, Vazhadvavoor Road,
Kavundanpalayam,
Puducherry - 605 009.

4.The Superintendent,
Central Prison, Kalapet, Pudhucherry,

5.The Public Prosecutor,
Puducherry.

H.C.P. No. 2901 of 2019

LN(CO)
KKV/07/09/2020



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