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H.C.P.(MD) No.1186 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.10.2020

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

and

THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI

H.C.P. (MD) No.1186 of 2019

A.Lakshmi

... Petitioner

-vs-

1. The Additional Chief Secretary to Government
State of Tamil Nadu
Home, Prohibition and Excise Department
Fort St.George, Chennai - 600 009
2. The District Magistrate and District Collector
Office of the District Magistrate and District Collector
Madurai District
3. The Superintendent of Prison
Madurai Central Prison
Madurai

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of habeas corpus to call for the entire records, connected with the detention order of the respondent No.2 in B.C.D.F.G.I.S.S.S.V.No.31/2019 dated 16.10.2019 and quash the same and direct the respondents to produce the body or person of the detenu by name Athisivan, son of Karuthaiah, aged about 41 years, now confining as a sexual offender at Madurai Central Prison before this Court and set him at liberty forthwith.

For Petitioner : Mr.N.Pragalathan

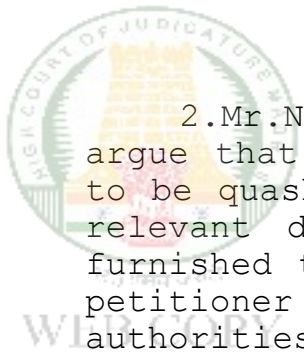
For Respondents : Mr.K.Dinesh Babu

Additional Public Prosecutor

O R D E R

[Order of the Court was made by K.KALYANASUNDARAM, J.]

The Habeas Corpus Petition has been filed by the wife of the detenu, namely, Aathisivan, son of Karuthaiah, Male, aged about 41 years, who has been branded as "Sexual Offender" by the second respondent in B.C.D.F.G.I.S.S.S.V.No.31/2019 dated 16.10.2019, as contemplated under Section 2(ggg) of the Tamil Nadu Act 14 of 1982.



2.Mr.N.Pragalathan, learned counsel for the petitioner would argue that the detention order impugned in this petition is liable to be quashed on the sole ground that the translated copies of the relevant documents relied on by the second respondent were not furnished to the detenu, which deprived the valuable rights of the petitioner from making effective representation to the concerned authorities for revocation of the detention order.

3.Per contra, Mr.K.Dineshbabu, learned Additional Public Prosecutor appearing for the respondents, while reiterating the counter affidavit filed by the second respondent, would argue that the detaining authority, namely, the second respondent herein, after being satisfied with the cogent materials produced by the sponsoring authority, has passed the detention order only to prevent the detenu from indulging in similar offence in future, which would prejudice to the maintenance of the public order and there is no infirmity or irregularity in the order of detention passed by the second respondent. Hence, he prayed for dismissal of the Habeas Corpus Petition.

4.We have heard the rival submissions and perused the materials available on records.

5.In the matter on hand, perusal of the book let furnished to the detenu from page Nos.175 to 215, it is evident that the translated copies of those documents were not enclosed in the booklet supplied to the detenu. Likewise, remand order was not translated and remand extension order also not found place in the booklet. So we see some force in the contention of the learned counsel for the petitioner. Therefore, we are of the view that the impugned detention order is liable to be set aside.

6. Accordingly, the order of detention passed by the second respondent, in B.C.D.F.G.I.S.S.S.V.No.31/2019 dated 16.10.2019, is set aside and the Habeas Corpus Petition is allowed. Consequently, the detenu, namely, Athisivan, son of Karuthaiah, aged about 41 years, now detained at Madurai Central Prison is directed to be released forthwith unless his presence or custody or detention is required in connection with any other case.

Sd/-

Assistant Registrar (C.O)

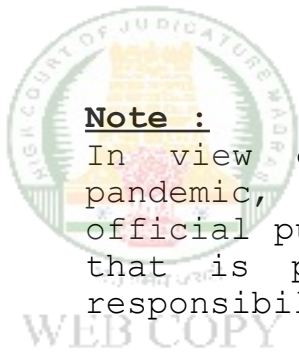
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Sub Assistant Registrar(CS)

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<https://hcservices.ecourts.gov.in/hcservices/>



Note :

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To

1. The Additional Chief Secretary to Government
State of Tamil Nadu
Home, Prohibition and Excise Department
Fort St.George
Chennai 600 009
2. The District Magistrate and District Collector
Office of the District Magistrate and District Collector
Madurai District
3. The Superintendent of Prison
Madurai Central Prison
Madurai
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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14.10.2020

SJ(CO)
CS(04.11.2020) 3P 5C