

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.02.2021

Coram

The Hon'ble Mr. Justice P.N.PRAKASH
and
The Hon'ble Mr. Justice V.SIVAGNANAM

H.C.P.No.1482 of 2020

Parthiban

... Petitioner

-vs-

1.State represented by
The Secretary,
Home, Prohibition and Excise Department
Fort St.George, Chennai 600 009.

2.The Commissioner of Police,
Greater Chennai City,
Vepery, Chennai - 600 007.

3.The Superintendent of Prison,
Central Prison, Puzhal
Chennai 600 066

4.The Inspector of Police
K-10, Koyambedu Police Station,
Chennai.

... Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of habeas corpus calling for the entire relating to the detention order in Memo No.267/BCDFGISSSV/2020, dated 30.07.2020 passed by the 2nd respondent under the Tamil Nadu Act 14 of 1982 and set aside the same and direct the respondent to produce the petitioner's friend Kanniyappan, S/o.Arumugam, aged about 25 years, the detenu, now confined in Central Prison, Puzhal, Chennai, before this Court and set the petitioner's friend Kanniyappan, S/o.Arumugam, aged about 25 years, the detenu herein at liberty.

For Petitioner : Mr.U.Yuvaraj

For Respondents : Mr.R.Prathap Kumar,
Addl. Public Prosecutor

ORDER

[Order of the Court was made by V.SIVAGNANAM, J.]

The petitioner is the friend of Kanniyappan, S/o.Arumugam, aged about 25 years, who is the detenu. The detenu has been detained by the second respondent in connection with order in 267/BCDFGISSSV/2020, dated 30.07.2020, 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 documents relied on by the detaining authority at Page Nos.189 and 191 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 267/BCDFGISSSV/2020, dated 30.07.2020 passed by the second respondent is set aside. The detenu, namely, Kanniyappan, S/o.Arumugam, aged about 25 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-

Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

- 1.The Secretary,
Home, Prohibition and Excise Department
Fort St.George, Chennai 600 009.
- 2.The Commissioner of Police,
Greater Chennai City,
Vepery, Chennai - 600 007.
- 3.The Joint Secretary to Government,
Public (Law & Order), Department,
Fort St.George, Chennai -9.
- 4.The Superintendent of Prison,
Central Prison, Puzhal
Chennai 600 066
- 5.The Inspector of Police
K-10, Koyambedu Police Station,
Chennai.
- 6.The Public Prosecutor,
High Court, Madras.

AKM/15.03.21/ 3P-7C/

H.C.P. No.1482 of 2020
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