

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.04.2021

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH
and
THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

H.C.P.No.1859 of 2020

Thamizharasi,
W/o.Selvaraj

... Petitioner/
Mother of the detenue

versus

1.Government of Tamil Nadu,
Rep. by its Additional Chief Secretary,
Prohibition and Excise Department,
Fort St.George, Chennai - 600 009.

2.The District Collector and
District Magistrate,
Office of the District Collector and
District Magistrate,
Nagapattinam District, Nagapattinam.

3.The Superintendent of Central Prison,
Tiruchirappalli.

4.The Superintendent of Police,
Nagapattinam District.

5.The Inspector of Police,
Voimedu Police Station,
Vedaraniyam Taluk,
Nagapattinam District.

... Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Habeas Corpus, calling for the records relating to the proceedings of the second respondent dated 28.08.2020, vide C.O.C.No.41/2020 against the detenu Aravindhana, son of Selvaraj, aged about 21 years, quash the same and consequently direct the respondents herein to produce the detenu, who is in detention under the Act 14 of 1982 in the Central Prison, Tiruchirappalli, before this Court and set him at liberty.

For Petitioner : Mr.D.Vairamoorthy

For Respondents : Mr.R.Prathap Kumar
Additional Public Prosecutor

O R D E R
[Order of the Court was made by R.PONGIAPPAN, J.]

The petitioner is the mother of the detenu, Aravindhan, son of Selvaraj, aged about 21 years. The detenu has been detained by the second respondent by its order dated 28.08.2020 in C.O.C.No.41/2020, 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 several grounds have been raised, learned counsel for the petitioner mainly focused his arguments on the ground that the detenu was detained on 28.08.2020 but the relied upon documents were served only on 05.09.2020, not within 5 days as required under Section 8(1) of the Tamil Nadu 14 of 1982, 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 relied upon documents has not been 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. In the result, the Habeas Corpus Petition is allowed and the order of detention in C.O.C.No.41/2020 dated 28.08.2020, passed by the second respondent is set aside. The detenu, viz. Aravindhan, son of Selvaraj, aged about 21 years, is directed to be released forthwith unless his detention is required in connection with any other case.

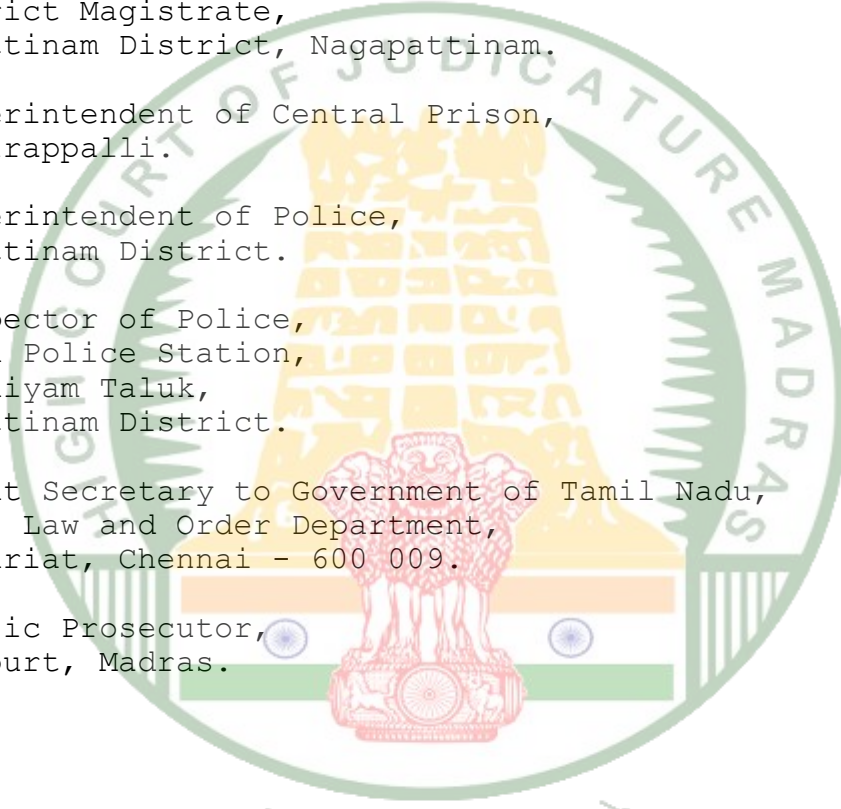
Sd/-
Assistant Registrar

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Sub Assistant Registrar

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To

1. Additional Chief Secretary,
Government of Tamil Nadu,
Prohibition and Excise Department,
Fort St. George, Chennai - 600 009.
 2. The District Collector and
District Magistrate,
Office of the District Collector and
District Magistrate,
Nagapattinam District, Nagapattinam.
 3. The Superintendent of Central Prison,
Tiruchirappalli.
 4. The Superintendent of Police,
Nagapattinam District.
 5. The Inspector of Police,
Voimedu Police Station,
Vedaraniyam Taluk,
Nagapattinam District.
 6. The Joint Secretary to Government of Tamil Nadu,
Public, Law and Order Department,
Secretariat, Chennai - 600 009.
 7. The Public Prosecutor,
High Court, Madras.
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- सत्यमेव जयते

H.C.P.No.1859 of 2020

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