

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.06.2021

CORAM

THE HON'BLE MR.JUSTICE M.M.SUNDRESH
AND
THE HON'BLE MS.JUSTICE R.N.MANJULA

H.C.P.NO.1998 OF 2020

Sabura Begum

... Petitioner/
Wife 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 Commissioner of Police,
Greater Chennai,
O/o. The Commissioner of Police,
(Goondas Section) Vepery,
Chennai District.
3. The Superintendent of Prison,
Central Prison,
Cuddalore, Cuddalore District.
4. The Inspector of Police,
N-3, Muthialpet Police Station,
Chennai District.

... 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 vide Memo No.440/BCDFGISSSV/2020 dated 23.10.2020, passed by the second respondent and quash the same and direct the respondents herein to produce the petitioner's husband namely Abdul Khader @ Mannady Khader @ Khader, S/o.Mohammed Kasim aged about 35 years, (who is presently under going detention in the Central Prison, Cuddalore), before this Court and set him at liberty.

For Petitioner : Mr.A.P.Sathyamurthy

For Respondents : Mr.R.Muniyapparaj
Government Advocate (Crl. Side)

ORDER

(Order of the Court was made by M.M.SUNDRESH, J.)

The petitioner is the wife of Abdul Khader @ Mannady Khader @ Khader, S/o.Mohammed Kasim, aged about 35 years, who is the detenu. The detenu has been detained by the second respondent by his order in Memo No.440/BCDFGISSSV/2020 dated 23.10.2020, 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 Government Advocate (Criminal Side) appearing for the respondents. We have also perused the records produced by the Detaining Authority.

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 first information report pertaining to the similar case at Page No.295 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 Memo No.440/BCDFGISSSV/2020 dated 23.10.2020, passed by the second respondent is set aside. The detenu, namely, Abdul Khader @ Mannady Khader @ Khader, S/o.Mohammed Kasim, aged about 35 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

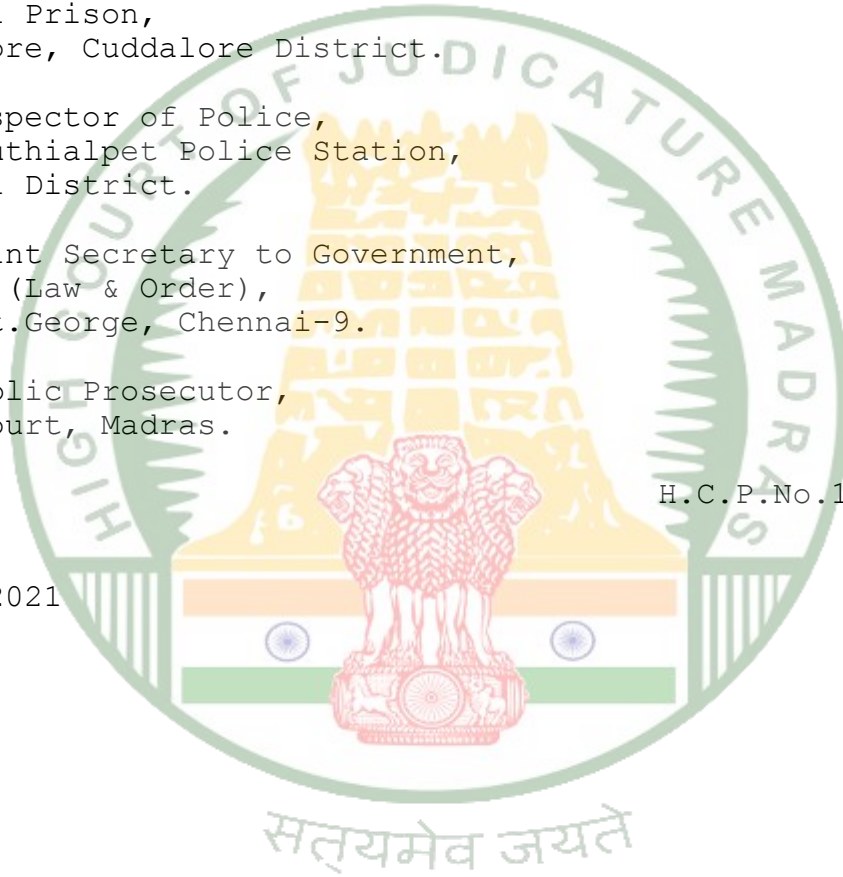
mmi/rna

To

1. The Secretary,
Home, Prohibition and Excise Department,
Fort St George, Chennai 600 009.
2. The Commissioner of Police,
Greater Chennai, O/o. The Commissioner of Police,
(Goondas Section) Vepery,
Chennai District.
3. The Superintendent of Prison,
Central Prison,
Cuddalore, Cuddalore District.
4. The Inspector of Police,
N-3, Muthialpet Police Station,
Chennai District.
5. The Joint Secretary to Government,
Public (Law & Order),
Fort St.George, Chennai-9.
6. The Public Prosecutor,
High Court, Madras.

H.C.P.No.1998 of 2020

PP(CO)
CS/29/06/2021



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