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H.C.P.No.721, 722, 723, 738 and 741 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.09.2023

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR
and

THE HONOURABLE MR.JUSTICE R.SAKTHIVEL

H.C.P.No.721, 722, 723, 738 and 741 of 2023

H.C.P.No.721 of 2023

Priya

W/o. Stalin Bharathi

.. Petitioner

Vs.

The State represented by its

1. The Additional Chief Secretary to Government (Home)
Prohibition and Excise Department
Government of Tamilnadu
Tamilnadu Secretarial
Fort St.George
Chennai – 600 009
2. The District Collector and District Magistrate
Tiruvarur District, Tiruvarur
3. The Superintendent of Police
Tiruvarur District, Tiruvarur
4. The Superintendent of Prison
District Jail

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Pudukottai

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5. The Inspector of Police
Koradacherry Police Station
Tiruvarur District

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of direction to call for the records pertaining to the order of detention dated 08.04.2023 passed by the second respondent in C.O.C.No.31/2023 and quash the same and produce the detenu Stalin Bharathi, aged about 33 years, son of Natesa Tamilarvan detained at District Jail, Pudukottai before this Court and set him at liberty.

H.C.P.No.722 of 2023

Rani
W/o. Murugesh

.. Petitioner

Vs.

The State represented by its

1. The Additional Chief Secretary to Government (Home)
Prohibition and Excise Department
Government of Tamilnadu
Tamilnadu Secretarial
Fort St.George
Chennai – 600 009
2. The District Collector and District Magistrate
Tiruvarur District, Tiruvarur
3. The Superintendent of Police
Tiruvarur District, Tiruvarur

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4. The Superintendent of Prison
District Jail
Pudukottai

5. The Inspector of Police
Koradacherry Police Station
Tiruvarur District

..Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of direction to call for the records pertaining to the order of detention dated 08.04.2023 passed by the second respondent in C.O.C.No.33/2023 and quash the same and produce the detenu Surya, aged about 25 years, son of Murugesh detained at District Jail, Pudukottai before this Court and set him at liberty.

H.C.P.No.723 of 2023

Sagunthalai
W/o. Anbalagan

.. Petitioner

Vs.

The State represented by its

1. The Additional Chief Secretary to Government (Home)
Prohibition and Excise Department
Government of Tamilnadu
Tamilnadu Secretarial
Fort St.George
Chennai – 600 009
2. The District Collector and District Magistrate
Tiruvarur District, Tiruvarur
3. The Superintendent of Police
Tiruvarur District, Tiruvarur

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4. The Superintendent of Prison
District Jail
Pudukottai

5. The Inspector of Police
Koradacherry Police Station
Tiruvarur District

..Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of direction to call for the records pertaining to the order of detention dated 08.04.2023 passed by the second respondent in C.O.C.No.35/2023 and quash the same and produce the detenu Arasu, aged about 20 years, son of Anbalagan detained at District Jail, Pudukottai before this Court and set him at liberty.

H.C.P.No.738 of 2023

Selvi
W/o.Gobu

.. Petitioner

Vs.

The State represented by its

1. The Additional Chief Secretary to Government (Home)
Prohibition and Excise Department
Government of Tamilnadu
Tamilnadu Secretarial
Fort St.George
Chennai – 600 009

2. The District Collector and District Magistrate
Tiruvarur District, Tiruvarur

3. The Superintendent of Police

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Tiruvarur District, Tiruvarur

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4. The Superintendent of Prison
District Jail
Pudukottai

5. The Inspector of Police
Needamangalam Police Station
Needamangalam
Tiruvarur District

..Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of direction to call for the records pertaining to the order of detention dated 08.04.2023 passed by the second respondent in C.O.C.No.34/2023 and quash the same and produce the detenu Madhavan, aged about 21 years, son of Gobu detained at District Jail, Pudukottai before this Court and set him at liberty.

H.C.P.No.741 of 2023

Saroja
S/o.Sekar

.. Petitioner

Vs.

The State represented by its

1. The Additional Chief Secretary to Government (Home)
Prohibition and Excise Department
Government of Tamilnadu
Tamilnadu Secretarial
Fort St.George
Chennai – 600 009

2. The District Collector and District Magistrate
Tiruvarur District, Tiruvarur

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3. The Superintendent of Police
Tiruvarur District, Tiruvarur
4. The Superintendent of Prison
District Jail
Pudukottai
5. The Inspector of Police
Needamangalam Police Station
Needamangalam
Tiruvarur District

..Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of direction to call for the records pertaining to the order of detention dated 08.04.2023 passed by the second respondent in C.O.C.No.32/2023 and quash the same and produce the detenu Veerapandiyan, aged about 29 years, son of Sekar detained at District Jail, Pudukottai before this Court and set him at liberty.

For Petitioner
(in all HCPs) : Ms.S.Lakshmi

For Respondents : Mr.Raj Thilak
(in all HCPs) Additional Public Prosecutor

COMMON ORDER

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

This common order will now dispose of the captioned five 'Habeas Corpus Petitions' ['HCPs' for the sake of brevity, convenience and clarity].

'H.C.P.No.721 of 2023', 'H.C.P.No.722 of 2023', 'H.C.P.No.723 of 2023',

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'H.C.P.No.738 of 2023' and 'H.C.P.No.741 of 2023' shall be referred to as 'I

HCP', 'II HCP', 'III HCP', 'IV HCP' and 'V HCP' respectively for the sake of convenience and clarity wherever necessary.

2. When the captioned HCPs were listed for Admission on 01.06.2023, the following orders were made:

'H.C.P.No.721 of 2023

M.SUNDAR, J.

and

R.SAKTHIVEL, J.

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

Captioned Habeas Corpus Petition has been filed in this Court on 25.04.2023 inter alia assailing a detention order dated 08.04.2023 bearing reference C.O.C.No.31/2023 made by 'second respondent' [hereinafter 'Detaining Authority' for the sake of convenience and clarity]. To be noted, fifth respondent is the Sponsoring Authority.

2. To be noted, Wife of the detenu is the petitioner.

3. Dr.S.Manoharan, learned counsel on record for habeas corpus petitioner is before us. Learned counsel for petitioner submits that ground case qua the detenu is for alleged offences under Sections 341, 147, 148, 506(ii), 307 and 302 of 'Indian Penal Code, 1860 (Act 45 of 1860)' ['IPC' for brevity] and subsequently altered to



H.C.P.No.721, 722, 723, 738 and 741 of 2023

Sections 120(B), 147, 148, 341, 427, 506(ii), 307 and 302 of IPC in Crime No.81 of 2023 on the file of Koradacherry Police Station.

4. The aforementioned detention order has been made on the premise that the detenu is a 'Goonda' under Section 2(f) of 'The Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Cyber law offenders, Drug-offenders, Forest-offenders, Goondas, Immoral traffic offenders, Sand-offenders, Sexual-offenders, Slum-grabbers and Video Pirates Act, 1982 (Tamil Nadu Act No.14 of 1982)' [hereinafter 'Act 14 of 1982' for the sake of convenience and clarity].

5. The detention order has been assailed inter alia on the ground that there is a delay of nearly one month in passing the impugned detention order as the detenu was arrested on 11.03.2023 but the impugned detention order was passed on 08.04.2023.

6. Prima facie case made out for admission. Admit. Issue Rule nisi returnable by four weeks.

7. Mr.R.Muniyapparaj, learned Additional Public Prosecutor, State of Tamil Nadu accepts notice for all respondents. List the captioned Habeas Corpus Petition accordingly.

'H.C.P.No.722 of 2023

M.SUNDAR, J.

and

R.SAKTHIVEL, J.

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

Captioned Habeas Corpus Petition has been filed in this Court on 25.04.2023 inter alia assailing a detention order dated



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08.04.2023 bearing reference C.O.C.No.33/2023 made by 'second respondent' [hereinafter 'Detaining Authority' for the sake of convenience and clarity]. To be noted, fifth respondent is the Sponsoring Authority.

2. To be noted, Mother of the detenu is the petitioner.

3. Dr.S.Manoharan, learned counsel on record for habeas corpus petitioner is before us. Learned counsel for petitioner submits that ground case qua the detenu is for alleged offences under Sections 341, 147, 148, 506(ii), 307 and 302 of 'Indian Penal Code, 1860 (Act 45 of 1860)' ['IPC' for brevity] and subsequently altered to Sections 120(B), 147, 148, 341, 427, 506(ii), 307 and 302 of IPC in Crime No.81 of 2023 on the file of Koradacherry Police Station.

4. The aforementioned detention order has been made on the premise that the detenu is a 'Goonda' under Section 2(f) of 'The Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Cyber law offenders, Drug-offenders, Forest-offenders, Goondas, Immoral traffic offenders, Sand-offenders, Sexual-offenders, Slum-grabbers and Video Pirates Act, 1982 (Tamil Nadu Act No.14 of 1982)' [hereinafter 'Act 14 of 1982' for the sake of convenience and clarity].

5. The detention order has been assailed inter alia on the ground that there is a delay of nearly one month in passing the impugned detention order as the detenu was arrested on 11.03.2023 but the impugned detention order was passed on 08.04.2023.

6. Prima facie case made out for admission. Admit. Issue Rule nisi returnable by four weeks.

7. Mr.R.Muniyapparaj, learned Additional Public Prosecutor,



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State of Tamil Nadu accepts notice for all respondents. List the captioned Habeas Corpus Petition accordingly.'

'H.C.P.No.723 of 2023

M.SUNDAR, J.

and

R.SAKTHIVEL, J.

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

Captioned Habeas Corpus Petition has been filed in this Court on 25.04.2023 inter alia assailing a detention order dated 08.04.2023 bearing reference C.O.C.No.35/2023 made by 'second respondent' [hereinafter 'Detaining Authority' for the sake of convenience and clarity]. To be noted, fifth respondent is the Sponsoring Authority.

2. To be noted, Mother of the detenu is the petitioner.

3. Dr.S.Manoharan, learned counsel on record for habeas corpus petitioner is before us. Learned counsel for petitioner submits that ground case qua the detenu is for alleged offences under Sections 341, 147, 148, 506(ii), 307 and 302 of 'Indian Penal Code, 1860 (Act 45 of 1860)' ['IPC' for brevity] and subsequently altered to Sections 120(B), 147, 148, 341, 427, 506(ii), 307 and 302 of IPC in Crime No.81 of 2023 on the file of Koradacherry Police Station.

4. The aforementioned detention order has been made on the premise that the detenu is a 'Goonda' under Section 2(f) of 'The Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Cyber law offenders, Drug-offenders, Forest-offenders, Goondas, Immoral



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traffic offenders, Sand-offenders, Sexual-offenders, Slum-grabbers and Video Pirates Act, 1982 (Tamil Nadu Act No.14 of 1982)' [hereinafter 'Act 14 of 1982' for the sake of convenience and clarity].

5. The detention order has been assailed inter alia on the ground that there is a delay of nearly one month in passing the impugned detention order as the detenu was arrested on 11.03.2023 but the impugned detention order was passed on 08.04.2023.

6. Prima facie case made out for admission. Admit. Issue Rule nisi returnable by four weeks.

7. Mr.R.Muniyapparaj, learned Additional Public Prosecutor, State of Tamil Nadu accepts notice for all respondents. List the captioned Habeas Corpus Petition accordingly.'

'H.C.P.No.738 of 2023

M.SUNDAR, J.

and

R.SAKTHIVEL, J.

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

Captioned Habeas Corpus Petition has been filed in this Court on 25.04.2023 inter alia assailing a detention order dated 08.04.2023 bearing reference C.O.C.No.34/2023 made by 'second respondent' [hereinafter 'Detaining Authority' for the sake of convenience and clarity]. To be noted, fifth respondent is the Sponsoring Authority.

2. To be noted, wife of the detenu is the petitioner.

3. Dr.S.Manoharan, learned counsel on record for habeas



corpus petitioner is before us. Learned counsel for petitioner submits that ground case qua the detenu is for alleged offences under Sections 341, 147, 148, 506(ii), 307 and 302 of 'Indian Penal Code, 1860 (Act 45 of 1860)' ['IPC' for brevity] and subsequently altered to Sections 120(B), 147, 148, 341, 427, 506(ii), 307 and 302 of IPC in Crime No.81 of 2023 on the file of Koradacherry Police Station.

4. The aforementioned detention order has been made on the premise that the detenu is a 'Goonda' under Section 2(f) of 'The Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Cyber law offenders, Drug-offenders, Forest-offenders, Goondas, Immoral traffic offenders, Sand-offenders, Sexual-offenders, Slum-grabbers and Video Pirates Act, 1982 (Tamil Nadu Act No.14 of 1982)' [hereinafter 'Act 14 of 1982' for the sake of convenience and clarity].

5. The detention order has been assailed inter alia on the ground that there is a delay of one month in passing the impugned detention order as the detenu was arrested on 11.03.2023 but the impugned detention order was passed on 08.04.2023.

6. Prima facie case made out for admission. Admit. Issue Rule nisi returnable by four weeks.

7. Mr.R.Muniyapparaj, learned Additional Public Prosecutor, State of Tamil Nadu accepts notice for all respondents. List the captioned Habeas Corpus Petition accordingly.



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'H.C.P.No.741 of 2023

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M.SUNDAR, J.
and
R.SAKTHIVEL, J.

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

Captioned Habeas Corpus Petition has been filed in this Court on 25.04.2023 inter alia assailing a detention order dated 08.04.2023 bearing reference C.O.C.No.32/2023 made by 'second respondent' [hereinafter 'Detaining Authority' for the sake of convenience and clarity]. To be noted, fifth respondent is the Sponsoring Authority.

2. To be noted, wife of the detenu is the petitioner.

3. Dr.S.Manoharan, learned counsel on record for habeas corpus petitioner is before us. Learned counsel for petitioner submits that ground case qua the detenu is for alleged offences under Sections 341, 147, 148, 506(ii), 307 and 302 of 'Indian Penal Code, 1860 (Act 45 of 1860)' ['IPC' for brevity] and subsequently altered to Sections 120(B), 147, 148, 341, 427, 506(ii), 307 and 302 of IPC in Crime No.81 of 2023 on the file of Koradacherry Police Station.

4. The aforementioned detention order has been made on the premise that the detenu is a 'Goonda' under Section 2(f) of 'The Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Cyber law offenders, Drug-offenders, Forest-offenders, Goondas, Immoral traffic offenders, Sand-offenders, Sexual-offenders, Slum-grabbers and Video Pirates Act, 1982 (Tamil Nadu Act No.14 of 1982)' [hereinafter 'Act 14 of 1982' for the sake of convenience and clarity].



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5. *The detention order has been assailed inter alia on the ground that there is a delay of one month in passing the impugned detention order as the detenu was arrested on 11.03.2023 but the impugned detention order was passed on 08.04.2023.*

6. *Prima facie case made out for admission. Admit. Issue Rule nisi returnable by four weeks.*

7. *Mr.R.Muniyapparaj, learned Additional Public Prosecutor, State of Tamil Nadu accepts notice for all respondents. List the captioned Habeas Corpus Petition accordingly.'*

3. The aforementioned Admission Board orders dated 01.06.2023 capture all essentials i.e., essentials imperative for appreciating this common order and therefore, we are not setting out the same again in this final order.

4. As would be evident from the aforementioned Admission Board orders, in the captioned five HCPs, at the time of admission, Dr.S.Manoharan, learned counsel for petitioners posited his challenge to the impugned preventive detention orders on the ground turning on time consumed between the dates of arrest of detenu and dates of impugned preventive detention orders i.e., live and proximate link between grounds of detention and purpose of detention having snapped but Ms.S.Laskhmi,



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learned counsel on record for the petitioners in the captioned HCPs in the final hearing Board, changed her line of attack qua her campaign against the impugned preventive detention orders and submitted that subjective satisfaction arrived at by the Detaining Authority as regards imminent possibility of detenu being enlarged on bail is clearly impaired. Elaborating on this submission, learned counsel drew our attention to one portion of the grounds of impugned preventive detention orders, which reads as follows:

'4..... However in similar case in Crime Number 358/2021 u/s 147, 148, 294(b), 452, 323, 324, 302 IPC of Mayiladuthurai Police Station, bail was granted by the court of Hon'ble High Court, Chennai in Crl.O.P.No.9350 of 2021 dated 23.08.2021 to an accused by name Thiru.Ranjith, Son of Neelamegam. Hence, I infer that there is real possibility of (Thiru.Stalin Bharathi, male, aged 33/2023, s/o.Natesa Tamilarvan) coming out on bail by filing bail application for the above case before the appropriate court and Higher Court.'

5. Learned counsel adverting to grounds booklet submitted that as regards Crl.O.P.No.9350 of 2021 and order dated 23.08.2021, the same has been furnished as part of the grounds booklet but a perusal of the same brings to light that what has been provided to the detenu is not an order in



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Crl.O.P.No.9350 of 2021 but an order in Crl.M.P.No.8148 of 2021. A further careful perusal of this Crl.M.P made by a Hon'ble single Judge of this Court brings to light that it is a relaxation order relaxing one of the conditions imposed on the petitioner at the time of grant of bail.

6. Learned counsel submitted that this is clearly non-application of mind on the part of the Detaining Authority and therefore, her challenge to the impugned preventive detention orders deserves to be sustained.

7. In response to the above arguments, learned Prosecutor submitted to the contrary. Learned Prosecutor submitted that it is an inadvertent clerical error and the order relaxing the bail condition has been included in the grounds booklet instead of the bail order.

8. We carefully considered the submissions made on both sides.

9. Subjective satisfaction that a Detaining Authority arrives at qua imminent possibility of detenu being enlarged on bail is an important determinant of any impugned preventive detention order. In the case on hand, such subjective satisfaction has been arrived at by the Detaining Authority by relying on a bail condition relaxing order by referring to the same as a bail order. Therefore, such subjective satisfaction is clearly



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impaired. This Court has repeatedly held that impairment of such subjective satisfaction leaves the impugned preventive detention order vitiated and leaves it liable for being dislodged in a habeas legal drill.

10. Referring to a bail condition relaxation order as bail order is also a clear case of non-application of mind on the part of the Detaining Authority and this also vitiates the impugned preventive detention order warranting interference in the same vide the habeas legal drill on hand.

11. There is one other aspect of the matter. The grounds of impugned preventive detention order made by Detaining Authority refers to a bail order made by a Hon'ble single Judge of this Court and gives the date of order in CrI.O.P but what has been given to the detenu is bail condition relaxing order. This not only baffles the detenu but also seriously afflicts the right of the detenu to make an effective representation qua impugned preventive detention order. This Court has repeatedly held that right of detenu to make an effective representation against impugned preventive detention order is a Constitutional guarantee ingrained in Article 22(5) of the Constitution of India and breach of the same leads to dislodgement of impugned preventive detention orders. In the case on hand, we have no



H.C.P.No.721, 722, 723, 738 and 741 of 2023

hesitation in saying that Constitutional safeguard ingrained in Article 22(5) has been affected as the baffled detenues will certainly have their rights to make an effective representation qua impugned preventive detention orders seriously affected. In the light of the narrative, discussion and dispositive reasoning set out supra, we have no hesitation in saying that all the five impugned preventive detention orders deserve to be dislodged.

12.1. Ergo, the sequitur is, HCP No.721 of 2023 is allowed. Impugned preventive detention order dated 08.04.2023 bearing reference C.O.C.No.31 of 2023 made by the second respondent is set aside and the detenu Thiru.Stalin Bharathi, aged 33 years, male, son of Thiru.Natesa Tamilarvan is directed to be set at liberty forthwith, if not required in connection with any other case / cases. There shall be no order as to costs.

12.2. Apropos, HCP No.722 of 2023 is allowed. Impugned preventive detention order dated 08.04.2023 bearing reference C.O.C.No.33 of 2023 made by the second respondent is set aside and the detenu Thiru.Surya, aged 25 years, male, son of Thiru.Murugesh is directed to be set at liberty forthwith, if not required in connection with any other case / cases. There shall be no order as to costs.



H.C.P.No.721, 722, 723, 738 and 741 of 2023

12.3. In the result, HCP No.723 is allowed. Impugned preventive detention order dated 08.04.2023 bearing reference C.O.C.No.35 of 2023 made by the second respondent is set aside and the detenu Thiru.Arasu, aged 20 years, male, son of Thiru.Anbalagan is directed to be set at liberty forthwith, if not required in connection with any other case / cases. There shall be no order as to costs.

12.4. Therefore, HCP No.738 is allowed. Impugned preventive detention order dated 08.04.2023 bearing reference C.O.C.No.34 of 2023 made by the second respondent is set aside and the detenu Thiru.Madhavan, aged 21 years, male, son of Thiru.Gobu is directed to be set at liberty forthwith, if not required in connection with any other case / cases. There shall be no order as to costs.

12.5. Finally, HCP No.741 is allowed. Impugned preventive detention order dated 08.04.2023 bearing reference C.O.C.No.32 of 2023 made by the second respondent is set aside and the detenu Thiru.Veerapandiyan, aged 29 years, male, son of Thiru.Sekar is directed to



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be set at liberty forthwith, if not required in connection with any other case /
cases. There shall be no order as to costs.

(M.S.,J.)

(R.S.V.,J.)

08.09.2023

Index : Yes

Speaking order

Neutral Citation : Yes

gpa

**P.S: Registry to forthwith communicate this order to Jail authorities in
District Jail, Pudukottai**



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To

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1. The Additional Chief Secretary to Government (Home)
Prohibition and Excise Department
Government of Tamilnadu
Tamilnadu Secretarial
Fort St.George
Chennai – 600 009
2. The District Collector and District Magistrate
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5. The Inspector of Police
Koradacherry Police Station
Tiruvarur District
6. The Inspector of Police
Needamangalam Police Station
Needamangalam
Tiruvarur District
7. The Public Prosecutor
Union Territory of Puducherry



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M.SUNDAR, J.,
and
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