

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21-03-2016

CORAM

THE HONOURABLE MR.JUSTICE S.NAGAMUTHU
AND

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

HABEAS CORPUS PETITION No.2563 of 2015

Suganya

... Petitioner

vs.

State rep. by

1.The Secretary to Government
Home, Prohibition and Excise Department
Secretariat
Fort St. George
Chennai-600 009.

2.The Commissioner of Police
Chennai Police.

.. Respondents

Habeas Corpus Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Habeas Corpus, to call for the entire records relating to the Detention Order passed by the second respondent in Memo No.946/BCDFGISSSV/2015, dated 17.09.2015, quash the same and consequently, to direct the respondents to produce the detenu viz., Ashok, S/o.Raja, aged about 26 years, now confined at Central Prison, Puzhal, Chennai, before this Court and to set him at liberty.

For Petitioner : Mr.G.Gubendiran

For Respondents : Mr.A.N.Thambidurai
Additional Public Prosecutor

ORDER

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

Petitioner is the wife of the detenu, namely, Ashok, and challenge is made to the order of detention, dated 17.09.2015, passed by the second respondent, under which the detenu has been branded as a "Goonda" and detained under the Tamil Nadu Act 14 of 1982.

2. As per the grounds of detention dated 17.09.2015, the detenu came to the adverse notice in the following four cases:-

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

1. K-4 Anna Nagar Police Station Cr.No.1595 of 2014 for the alleged commission of the offence

u/s. 379 of IPC and the offence said to have taken place at 15.00 hours on 19.07.2014.

2. K-4 Anna Nagar Police Station Cr.No.2586/2014 for the alleged commission of the offence u/s. 379 of IPC and the offence said to have taken place at 05.10 hours on 21.11.2014.

3. K-4 Anna Nagar Police Station Cr.No.577/2015 for the alleged commission of the offences u/s. 341, 294(b), 392 and 506 (i) IPC and the offence said to have taken place at 20.00 hours on 08.08.2015.

4. K-4 Anna Nagar Police Station Cr.No.590/2015 for the alleged commission of the offences u/s. 341, 294(b), 384 and 506 (ii) of IPC and the offence said to have taken place at 17.30 hours on 19.08.2015.

3. In the grounds of detention, it is stated among other things, that the detenu along with others were involved in the commission of similar kind of offence, which took place at about 8.30 hours on 29.08.2015, and in that regard, the Inspector of Police, K-4 Anna Nagar Police Station, has registered a case against the detenu in Crime No.607 of 2015 for the commission of the offences under Sections 341, 294(b), 214, 336, 392, 307 and 506 (ii) IPC (which is the ground case). The detenu and another person were arrested on 29.08.2015, at about 09.50 hours. On such arrest, both of them voluntarily came forward to give a confession statement, which was recorded in the presence of witnesses, wherein, they have admitted their involvement in the 3rd and 4th adverse cases and based on their confession, the knife and cell phone were seized. Thereafter, the detenu as well as the other accused were produced before the jurisdictional Magistrate, who remanded them to judicial custody till 11.09.2015 and subsequently, their remand period was extended till 25.09.2015.

4. The detaining authority on being satisfied with the materials placed before him by the sponsoring authority that the activities of the detenu are prejudicial to the maintenance of public order, has clamped the order of detention.

5. Mr.G.Gubendiran, learned counsel appearing for the petitioner, would submit that the detenu is in remand in connection with the 3rd and 4th adverse cases as well as in the ground case in Crime No.607 of 2015. The detenu moved applications for bail in connection with the 3rd adverse case and the ground case in CrI.M.P.Nos.14905 and 14906 of 2015 respectively and the bail was granted on 12.09.2015, but, he is yet to offer sureties. The detenu has also moved an application for bail in connection with the 4th adverse case and the same is pending. However, in a similar case particulars furnished by the detaining authority, a case was registered in Crime No.164 of 2013 at K-3 Aminjikarai Police Station only for the offences

under Sections 384 and 506 (ii) IPC, whereas, the ground case was registered against the detenu in Crime No.607 of 2015 for the commission of the offences under Sections 341, 294(b), 214, 336, 392, 307 and 506 (ii) IPC. Since, the similar case particulars furnished by the detaining authority are not similar to that of the ground case, the subjective satisfaction arrived at by the detaining authority is vitiated and hence, prays for the quashment of the said order.

6. Per contra, Mr.A.N.Thambidurai, the learned Additional Public Prosecutor would contend that on due and proper application of mind, the detaining authority has rightly arrived at the subjective satisfaction and hence, prays for the dismissal of the petition.

7. As rightly pointed out by the learned counsel appearing for the petitioner, in the ground case, the major offences registered against the detenu in Crime No.607 of 2015 was for the commission of the offences under Sections 392 and 307 IPC, whereas, the similar case particulars furnished by the detaining authority, was registered only for the offences under Sections 384 and 506 (ii) IPC and therefore, in our considered opinion, the similar case particulars furnished by the detaining authority in paragraph No.4 of the grounds of detention are not similar to that of the ground case. Therefore, the subjective satisfaction arrived at by the detaining authority is vitiated. Hence on this sole ground, the order of detention is liable to be quashed.

8. In the result, this Habeas Corpus Petition is allowed and the order of detention passed by the second respondent in Memo No.946/BCDFGISSSV/2015, dated 17.09.2015, is quashed. The detenu is ordered to be set at liberty forthwith unless his custody is required in connection with any other case.

Sd/-
सत्यमेव जयते

Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

paa

To:

1.The Secretary to Government
Home, Prohibition and Excise Department
Secretariat
Fort St. George
Chennai-600 009.

2.The Commissioner of Police
Chennai Police.

3.The Superintendent of Prisons
Central Prison, Puzhal, Chennai. 66

4. The Joint Secretary to Government
Public (Law and order)
Fort St. George, Chennai-9

5.The Public Prosecutor
High Court, Madras.

HCP No.2563 of 2015

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