

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE :07.01.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUDHAKAR
AND
THE HONOURABLE MR. JUSTICE P.N.PRAKASH

H.C.P. NO. 8 OF 2016

Mrs. Uma Manickam

.. Petitioner

- Vs -

1. The State of Tamil Nadu
rep. By The Inspector of Police (L&O)
V-1 Police Station
Villivakkam Police Station
Chennai 600 049.

2. Mrs. D.Vedavalli
3. Mr. S.R.Rajkumar

.. Respondents

Petition filed for the issuance of a writ of habeas corpus directing the first respondent to secure the detenu B.Deenadayalan, S/o Balu Reddiar, aged about 54 years, now under the illegal detention of respondents 2 and 3, produce him before this Court and set him at liberty.

For Petitioner : Mr. K.Elango

For Respondents: Mr. A.N.Thambidurai, APP for R-1

ORDER

(DELIVERED BY P.N.PRAKASH, J.)

This petition has been filed by the petitioner, the wife of the detenu, for a direction to the first respondent to secure the detenu B.Deenadayalan, S/o Balu Reddiar, aged about 54 years, now under the illegal detention of respondents 2 and 3, produce him before this Court and set him at liberty.

2. Heard the learned counsel appearing for the petitioner and the learned Addl. Government Pleader appearing for the respondent.

3. It is the case of the petitioner that she is the neighbour of the detenu and that the detenu had given her a

power of attorney dated 19.10.09 to deal with his property and on the strength of which a case in C.S. No.188 of 2012 has been filed before this Court. It is further averred in the affidavit that earlier, the very same petitioner had filed HCP No.1114/2007 against the first and third respondent herein alleging that the third respondent is keeping the detenu in illegal custody. HCP No.1114/07 was disposed of by a Division Bench of this Court on 9.8.07 in and by which the detenu was set at liberty when he was produced before the Court. Thereafter, the petitioner again filed HCP No.1334/07, which was disposed of by this Court on 14.9.07 by a detailed order, wherein this Court had noted that the detenu, Deenadayalan, is in a fit state of mental health and that he was wrongfully admitted in the Institute of Mental Health, Kilpauk, Chennai. For better clarity, the relevant portion of the order is extracted hereinbelow:-

"6.1. It was also brought to our notice by the learned Additional Public Prosecutor that the bonafide of the petitioner is also questionable as, even though she claims to be a neighbour of the detenu, she is the wife of a life convict, who is undergoing his sentence.

6.2. Since the case involves corrupt practice adopted in detaining the detenu illegally, taking recourse to the provisions of the Act, and we are of the considered opinion that the core and the central issue appears to be an attempt to grab the property of the detenu, into which we do not propose to go in detail in the above H.C.P.No.1334 of 2007, except to record our serious concern, we deem it fit to refer the further investigation with regard to the entire issue to Mr.Thukkaiandi, Joint Director, Special Investigation Team, Directorate of Vigilance and Anti-corruption, Chennai, this Court, a sentinel of the people's rights, cannot close its eyes to matters which strictly do not fall within the realm of law, or in cases where law is thrown to winds and those who are expected to obey, observe and follow law, decide to violate it.

6.3. We direct the learned Additional Public Prosecutor to hand over all the files relating to the case from the files of (i) Tambaram Police Station; and (ii) Director, Institute of Mental Health, to the Investigating Officer.

6.4. As far as the records relating to C.M.P. No.4215 of 2007 on the file of the learned

Judicial Magistrate, Tambaram are concerned, the same shall be in the custody of the learned Chief Judicial Magistrate, Chengalpattu, and as and when any information is sought for by the Investigating Officer, authenticated copies of the documents shall be furnished.

6.5. After detailed investigation, the Investigating Officer shall, ferret out the truth, submit his report expeditiously, in any event, within three months from the date of receipt of copy of this order. The Investigating Officer, on the basis of the final report, shall, by himself, take action in accordance with law against all the erred persons, except the Judicial Officer, strictly following the procedure contemplated under law.

6.6. A copy of the final report with authenticated copy of all materials of the investigation shall be forwarded to the Registrar General, who shall place the same before the Hon'ble Chief Justice to initiate necessary disciplinary action against the learned Judicial Magistrate, Tambaram, if it is so required, in accordance with law.

6.7. We are satisfied that the detenu suffered illegal detention as he is a normal person, as also so opined and recorded in the earlier order dated 9.8.2007 made in H.C.P.No.1114 of 2007, and hence, the detenu is set at liberty forthwith.

7. As the learned Additional Public Prosecutor has raised suspicion as to the bona fide of the petitioner, we direct the Investigating Officer to give appropriate direction to the local Police concerned to take care of the safety of the detenu and his property. If any assistance is required from the Tamil Nadu State Legal Services Authority, Chennai in this regard, the same shall be provided to him by the Member Secretary, Tamil Nadu State Legal Services Authority, Chennai."

4. From the above order, it is evident that the petitioner herself is the wife of a life convict and her bona fide was also doubted and, therefore, for the said purpose direction was given to the local police to give special protection to the detenu. Further direction was also given to the Member Secretary, Tamil Nadu State Legal Services Authority, to provide legal assistance to the detenu, if so required.

5. It is stated by the learned counsel for the petitioner that curiously the power of attorney given to the petitioner by the detenu had been cancelled as early as on 24.12.2013. Following the same, the petitioner has given a representation dated 18.2.15 to the police authorities alleging that the detenu Deenadayalan is in the illegal custody of respondents 2 and 3.

6. It is seen that even in the representation dated 18.2.15, no details have been given by the petitioner. Further, we are not able to countenance the locus standi of the petitioner, inasmuch as she herself, even according to her, is a neighbour of the detenu and that the power of attorney given to her was cancelled by the detenu on 24.12.2013. Though the power attorney was cancelled as early as on 24.12.2013, representation has been given by the petitioner to the police authorities only on 18.2.15. Further, the petitioner has not given any details as to the reason for the detenu giving power of attorney to her and she has also not disputed the statement made by the learned Addl. Public Prosecutor, that she is the wife of a life convict, which finds place in the order passed by the Division Bench as early as on 14.9.07. It is also evident from the record that though representation was given by the petitioner way back on 18.2.2015, no further steps have been taken by the petitioner and the present petition has been filed only on 6.11.2015 after a period of almost nine months from the date of initial representation.

7. In the above circumstances, this Court finds no merit in the claim made by the petitioner warranting issuance of a writ of habeas corpus. Accordingly, this petition is dismissed.

Sd/-

Assistant Registrar(CCC)

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Sub Assistant Registrar

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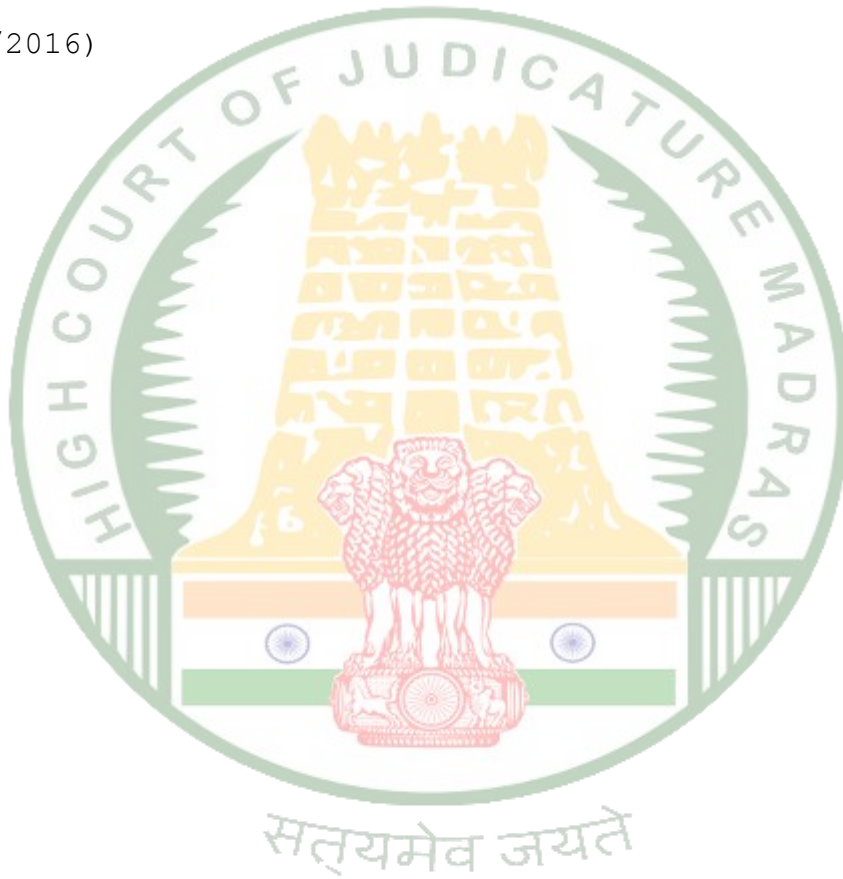
1. The Inspector of Police (L&O)
V-1 Police Station
Villivakkam Police Station
Chennai 600 049.

2. The Public Prosecutor
High Court
Madras.

+1cc to Mr.K.Elango, Advocate, S.R.No.1187

H.C.P. NO. 80F 2016

gj (CO)
srg (10/02/2016)



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