

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.10.2016

CORAM:

THE HON'BLE MR.JUSTICE A.SELVAM
AND
THE HON'BLE MR.JUSTICE P.KALAIYARASAN

H.C.P.No.380 of 2016

Thamizharasi

... Petitioner

vs.

1.State of Tamil Nadu rep.
by Secretary to Government
Prohibition and Excise Department
Fort St.George, Chennai 9

2. The Commissioner of Police
Coimbatore City ... Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of habeas corpus to call for the records in connection with the order of detention passed by the second respondent dated 31.10.2015 in C.No.57/G/IS/2015 against the petitioner's son T.Ajithkumar @ Ajith, son of Thangaraj, male, aged 22 years and now he is confined at Central Prison, Coimbatore and set aside the same and direct the respondents to produce the body of detenu before this Hon'ble Court and set him at liberty.

For Petitioner : Mr.J.Ganesh

For Respondents: Mr.V.M.R.Rajentren, APP

ORDER

(Order of the Court was made by A.SELVAM,J.)

This Habeas Corpus Petition has been filed under Article 226 of the Constitution of India, praying to call for the records relating to detention order, dated 31.10.2015, passed in C.No.57/G/IS/2015, by the detaining authority, who has been arrayed as the second respondent herein, against the detenu, by name T.Ajithkumar @ Ajith, son of Thangaraj and quash the same.

2. The Inspector of Police, B-4, Race Course Police Station, Coimbatore, as sponsoring authority, has submitted an affidavit to the detaining authority, wherein it is averred that on 4.10.2015, one R.Ragupathy has given a complaint against the detenu in B.4 Race Course Police Station, Coimbatore, wherein it is averred that the detenu and others have committed

an offence of murder and other offences and the same has been registered in Crime No.836 of 2015 under sections 147, 148, 302, 506(ii) of the Indian Penal Code and ultimately requested the detaining authority to invoke Act 14 of 1982 against the detenu.

3. The detaining authority, after considering the gravity of the offences alleged to have been committed by the detenu, has derived subjective satisfaction to the effect that the detenu can be branded as a "Goonda" and under such circumstances, he passed the impugned detention order and in order to quash the same, the present petition has been filed by the mother of the detenu, as petitioner.

4. On the side of the respondents, counter has not been filed. Under such circumstances, the present Habeas Corpus Petition is disposed of on merits on the basis of available materials on record.

5. The learned counsel appearing for the petitioner has contended that on the side of the detenu, a representation has been submitted to the concerned authorities and the same has not been disposed of and therefore, the detention order in question is liable to be quashed.

6. It is seen from the records that on 3.8.2016, a representation has been sent to the concerned authority, but so far no document has been filed that the representation has been disposed of. Since no information has been given on the side of the respondents with regard to disposal of the representation alleged to have been given by the detenu, the same would affect the rights of the detenu guaranteed under Article 22(5) of the Constitution of India and therefore, the detention order in question is liable to be quashed.

In fine this Habeas Corpus Petition is allowed. The detention order dated 31.10.2015, passed in C.No.57/G/IS/2015, by the detaining authority against the detenu, by name T.Ajithkumar @ Ajith, son of Thangaraj, is quashed and the respondents are directed to set him at liberty forthwith, unless he is required to be incarcerated in connection with some other case.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

1.The Secretary to Government
Prohibition and Excise Department
Fort St.George, Chennai 9

2. The Commissioner of Police
Coimbatore City

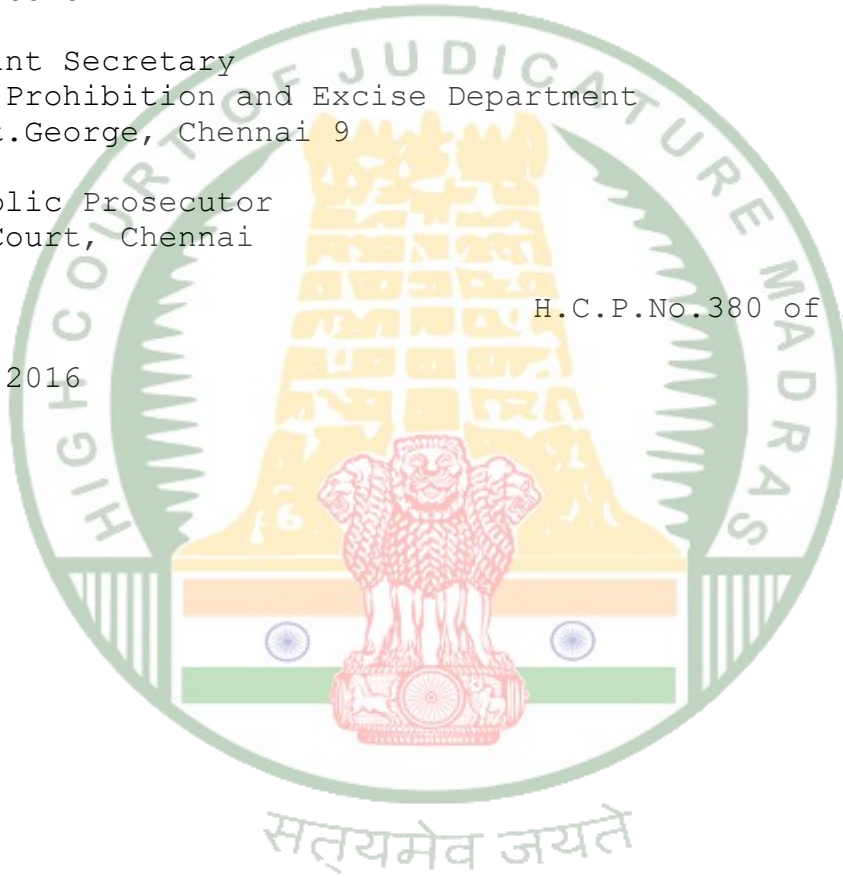
3. The Superintendent
Central Prison
Coimbatore

4. The Joint Secretary
Home, Prohibition and Excise Department
Fort St.George, Chennai 9

5. The Public Prosecutor
High Court, Chennai

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