

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28-09-2016

CORAM:

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

H.C.P.No.540 of 2016

K.Abinaya

... Petitioner/Wife
of the detenu

Vs.

1. The State of Tamil Nadu,
rep.by its Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George, Chennai-9.
2. The Commissioner of Police,
Greater Chennai Police,
Vepery,
Chennai-600 007

.... Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of habeas corpus calling for the entire records in pursuant to the detention order issued by the 2nd respondent vide No.151/BCDFGISSSV/2016, dated 19.02.2016 and set aside the same and consequently direct the respondents to produce the detenu Karthick, son of Ramaraj, aged about 27 years, husband of the petitioner, now confined at Central Prison, Puzhal, Chennai, before this Court and set him at liberty forthwith.

For Petitioner : Mr.M.Sathishkumar

For Respondents : Mr.V.M.R.Rajentren,
Additional Public Prosecutor

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 19.2.2016, passed in No.151/BCDFGISSSV/2016, by the detaining authority, who has

been arrayed as the second respondent herein, against the detenu, by name Karthik, Son of Ramaraj and quash the same.

2. The Inspector of Police, Central Crime Branch, as sponsoring authority, has submitted an affidavit to the detaining authority, wherein it is averred that one T.Ashokkumar, son of M.G.Tamilalagan, Regional Head Fraud Control Unit, Axis Bank, as defacto complainant, has lodged a complaint against the detenu and the same has been registered in Crime No.16 of 2016, under Sections 420, 465, 471 read with Section 34 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 nature of offences alleged to have been committed by the detenu, has derived subjective satisfaction and ultimately passed the impugned detention order by way of branding the detenu as 'Goonda' and in order to quash the impugned detention order, the present petition has been filed by the wife of the detenu, as petitioner.

4. On the side of the respondents, a detailed counter has been filed, wherein it has been contended inter alia to the effect that all the averments made in the petition are false and the detaining authority, after considering the materials placed before him, has rightly branded the detenu as "Goonda" and therefore, the present petition deserves to be dismissed.

5. The learned counsel appearing for the petitioner has contended that on the side of the detenu, a representation has been given and the same has not been disposed of without delay and therefore, the detention order in question is liable to be quashed.

6. Per contra, the learned Additional Public Prosecutor appearing for the respondents has contended that the representation submitted on the side of the detenu has been duly disposed of without delay and therefore, the detention order in question need not be quashed.

7. On the side of the respondents, a proforma has been submitted, wherein it has been clearly stated that in between Column Nos.7 to 9, seven clear working days are available and in between Column Nos.12 and 13, seven clear working days are available and no proper explanation has been given on the side of the respondents with regard to such huge delay and 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 19.02.2016, passed in No.151/BCDFGISSSV/2016, by the detaining authority against the

detenu, by name Karthik, son of Ramaraj, 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 V)

//True Copy//

Sub Assistant Registrar

msk

To

1. The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George, Chennai-9.
2. The Commissioner of Police,
Greater Chennai Police,
Vepery,
Chennai-600 007
3. The Superintendent,
Central Prison,
Puzhal, Chennai.
4. The Joint Secretary to Government,
Public(Law & Order),
Fort Saint George, Chennai - 9.
5. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.M.Sathishkumar, Advocate, S.R.No.55531

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CA(CO)
CA(28/09/2016)

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