

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.541 of 2016

J.Muniyappan

..... Petitioner /Brother of
the detenue

vs.

1.The State of Tamil Nadu,
rep.by its Secretary to Government,
Home Prohibition and Excise (XVI) Department,
Fort St.George,
Secretariat,
Chennai-600 009

2.The Commissioner of Police,
Greater Chennai Police,
Chennai

.... Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of habeas corpus calling for the records in connection with the order of detention passed by the second respondent dated 29.02.2016 in his office Memo No.213/BCDFGISSSV/2016, against the petitioner's brother by name Thiru Velu, S/o.Jayaraman, aged about 36 years, now confined at Central Prison, Puzhal, Chennai and set aside the same and direct the respondents to produce the above said detenu before this Court and set him at liberty.

For Petitioner : Mr.M.Machavatharan

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 29.02.2016, passed in No.213/BCDFGISSSV/2016, by the detaining authority, who has been arrayed as the second respondent herein, against the detenu, by name Velu, Son of Jayaraman and quash the same.

2. The Inspector of Police, Central Crime Branch, Team XVII, Greater Chennai, as sponsoring authority, has submitted an affidavit to the detaining authority, wherein it is averred that the detenu has involved in the following adverse case:

E4 Abiramapuram Police Station Crime No.392 of 2015, under Section 392 of the Indian Penal Code.

3. Further, it is averred in the affidavit that on 12.03.2013, one S.Madan Gopal, son of Mani Rao, has given a complaint against the detenu and the same has been registered in Crime No.950 of 2013, J7 Velacherry Police Station, under Sections 465, 467, 468, 420, 471 and 120(b) of the Indian Penal Code and subsequently, the investigation has been transferred to Central Crime Branch, Team XVII, Greater Chennai and ultimately requested the detaining authority to invoke Act 14 of 1982 against the detenu.

4. The detaining authority, after considering the offences alleged to have been committed by the detenu and other connected documents, has derived subjective satisfaction to the effect that the detenu is a habitual offender and ultimately branded him as a slum Grabber by way of passing the impugned detention order and in order to quash the same, the present petition has been filed by the brother of the detenu, as petitioner.

5. On the side of the respondents counter has been filed, wherein it is averred 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 passed the impugned detention order and therefore, the same does not require any interference.

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

7. Per contra, the learned Additional Public Prosecutor appearing for the respondents has contended that the representations submitted by the detenu are duly disposed of without delay and therefore, the detention order in question need not be quashed.

8. On the side of the respondents, a proforma has been submitted, wherein it has been clinchingly stated that in respect of first representation, in between Column Nos.7 to 9, nine clear working days are available and in between Column Nos.12 and 13, thirty clear working days are available. Likewise, with regard to second representation, in between Column Nos.7 to 9, seven clear working days are available and in between Column Nos.12 and 13, nineteen clear working days are

available and the said delay have not been explained on the side of the respondents. Since there is a huge delay in disposing of the representations given by the petitioner, 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 29.02.2016, passed in No.213/BCDFGISSSV/2016, by the detaining authority against the detenu, by name Velu, son of Jayaraman, 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 (XVI) Department,
Fort St.George,
Secretariat,
Chennai-600 009
- 2.The Commissioner,
Greater Chennai Police,
Chennai
- 3.The Superintendent of Police,
Central Prison, Puzhal, Chennai.
- 4.The Joint Secretary,
Public Law & Order Department
High Court, Madras.
- 5.The Public Prosecutor,
High Court, Madras

1 cc to Mr.E.Kannadasan, Advocate, sr.51536

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