

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **15.09.2016**

CORAM:

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

H.C.P.No.556 of 2016

Suganya

... Petitioner

VS.

1.The Commissioner of Police,
Veppery, Chennai.

2.The Secretary to Govt.,
Government of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St.George,
Chennai-600 009

... Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of habeas corpus calling for the records of the first respondent in connection with Memo No.13/BDFGISSV/2016, dated 21.01.2016 and quash the same and to produce the detenue Ramesh @ Adithya, before this Court and set at liberty the detenu Ramesh @ Adithya, now detained in Central Prison, Puzhal, Chennai-66, under Act 14/82.

For Petitioner : Mr.Y.Autony Jyothi Sheeran

For Respondents :Mr.V.M.R.Rajentren,A.P.P.

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, passed in No.13/BCDFGISSSV/2016,

dated 21.1.2016, by the detaining authority, who has been arrayed as first respondent herein, against the detenu, by name Ramesh @ Aditya, Son of Rajamani, and quash the same.

2. The Inspector of Police, Anti Vice Squad, Chennai Police, 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:

Anti Vice Squad Crime No.24 of 2015, registered under Sections 3(2)a, 4(1) and 5(1)a of ITP Act.

3. Further, it is averred in the affidavit that on 28.11.2015, one Enoch Moses @ Emi, as defacto complainant, has given a complaint against the detenu and the same has been registered in Crime No.48 of 2015, under Sections 3(2)a, 5(1)d and 7(2)A of ITP Act, read with Sections 6 and 12 of Protection of Children from Sexual Offences, 2012 and ultimately requested the detaining authority to invoke Act 14 of 1982 against the detenu.

4. The detaining authority, after considering the averments made in the affidavit and other connected documents, has derived subjective satisfaction to the effect that the detenu is a habitual offender and ultimately detained him by way of passing the

impugned detention order and in order to quash the same, the present petition has been filed by the wife of the detenu, as petitioner.

5. On the side of the respondents a detailed counter has been filed, wherein it has been contented *inter alia* to the effect that the averments made in the affidavit are false and the detaining authority, after considering the materials placed before him, has rightly passed the detention order, dated 21.1.2016 and the same is not liable to be quashed.

6. The learned counsel appearing for the petitioner has contended that a representation has been given and the same has been received on 22.3.2016, but in disposing of the same, a huge delay has occurred. Under the said circumstances, the detention order in question is liable to be quashed.

7. The learned Additional Public Prosecutor has contended that the representation submitted on the side of the detenu has been duly disposed of and therefore, the detention order does not call for any interference.

8. On the side of the respondents, a pro-forma has been filed, wherein it has been clearly mentioned that the representation in

question has been received on 22.3.2016; remarks called for on 22.3.2016 and remarks received on 5.4.2016. Further, concerned file has been sent to the Deputy Secretary on 5.4.2016 and the concerned Minister has passed his order on 17.5.2016. Therefore, it is very clear that in the pro-forma in between Column Nos.7 to 9 and 12 and 13, a vast delay has occurred and the same has not been explained on the side of the respondents and that itself 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 21.01.2016, passed in No.13/BCDFGISSSV/2016, by the detaining authority against the detenu, by name Ramesh @ Aditya, Son of Rajamani, 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.

(A.S.J.) (P.K.J.)
15.09.2016

msk

To

- 1.The Commissioner of Police,
Veppery, Chennai.
- 2.The Secretary to Govt.,
Government of Tamil Nadu,

Home, Prohibition and Excise Department,
Fort St.George,
Chennai-600 009

4.The Superintendent, Central Prison,
Puzhal, Chennai.

5.The Public Prosecutor,
High Court, Madras.

A.SELVAM,J.
AND
P.KALAIYARASAN,J
msk

H.C.P.No.556 of 2016

15.09.2016