

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.09.2016

CORAM:

THE HON'BLE MR.JUSTICE A.SELVAM

AND

THE HON'BLE MR.JUSTICE P.KALAIYARASAN

H.C.P.No.577 of 2016

G.Sriram

... Petitioner

vs.

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

2.The Commissioner of Police
Greater Chennai
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 relating to the petitioner's son detention under Act 14 of 1982 vide detention order dated 11.2.2016 on the file of the second respondent herein made in proceedings No.92/BCDFGISSV/2016 and quash the same as illegal and consequently direct the respondents herein to produce the body of the detenu S.Joseph, aged about 23 years, son of Sriram before this Hon'ble Court and set him at liberty at once from the detention now confined at Central Prison, Puzhal.

For Petitioner : Mr.R.Paramasivam

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 11.2.2016, passed in No.92/BCDFGISSV/2016, by the detaining authority, who has been arrayed as the second respondent herein, against the detenu, by name S.Joseph, son of Sriram and quash the same.

2. The Inspector of Police, Nolambur Police Station, as sponsoring authority, has submitted an affidavit to the detaining authority, wherein it is averred to the effect that the detenu has involved in the following adverse cases:

(1) T.11 Thirunindravur Police Station Crime No.561 of 2015, registered under Section 379 of Indian Penal Code

(2) T.11 Thirunindravur Police Station Crime No.563 of 2015, registered under Section 379 of the Indian Penal Code

(3) V.7 Nolambur Police Station Crime No.2 of 2016 registered under section 394 of the Indian Penal Code.

3. Further, it is averred in the affidavit that one Settu, son of Chinnasamy, as defacto complainant, has given a complaint on 28.1.2016 against the detenu to the Inspector of Police, Nolambur Police Station and the same has been registered in Crime No.66 of 2016 under sections 341, 294(b), 323, 392, 336, 427 and 506(ii) r/w 397 of the Indian Penal Code 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 branded him as a 'Goonda' by way of passing the impugned detention order and in order to quash the same, the present petition has been filed by the father of the detenu, as petitioner.

5. On the side of the respondents, a counter has been filed, wherein it has been contended to the effect that the averments made in the affidavit are false and the detaining authority, after considering the relevant records, has rightly invoked Act 14 of 1982 against the detenu by way of passing the detention order and the same does not call for any interference and therefore, the present petition deserves to be dismissed.

6. 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.

7. The learned Additional Public Prosecutor appearing for the respondents has contended that the representation given on the side of the detenu has been 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 is clearly stated that the remarks have been called for on 17.4.2016 and the concerned authority has sent the remarks on 29.4.2016 and therefore in between Column Nos.7 to 9, nine clear working days are available and further it is seen from the proforma that in Column Nos.12 and 13, thirteen clear working days are available and no explanation has been given on the side of the respondents with regard to huge delay 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 11.2.2016, passed in No.92/BCDFGISSV/2016, by the detaining authority against the detenu, by name S.Joseph, son of Sriram, 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.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

ajr

To

1. The Secretary to Government,
Government of Tamil Nadu
Prohibition and Excise Department, (Home)
Fort St.George, Chennai 9
- 2.The Commissioner of Police
Greater Chennai
Vepery, Chennai 600 007
3. The Superintendent
Central Prison
Puzhal, Chennai

4.The Joint Secretary to Government
Public Law and order Fort St.George
Chennai-09

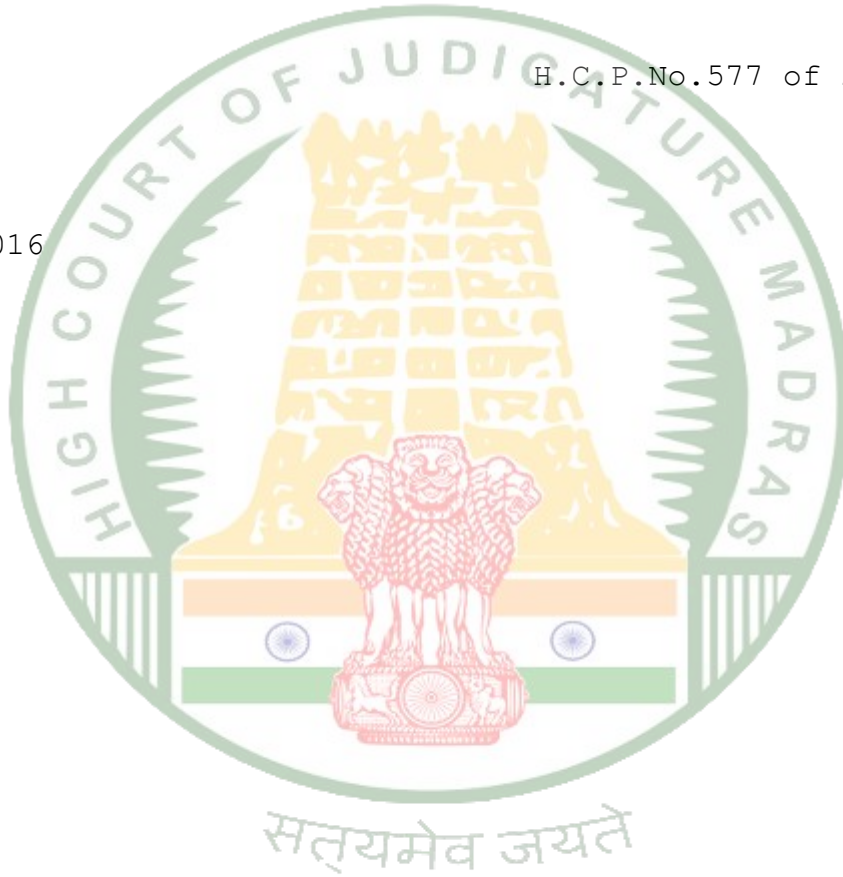
5.The District Collector
Chennai

6.The Director General of Police
Chennai-4

7.The Public Prosecutor High Court Madras

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