

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.09.2016

CORAM:

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

HCP No.581 of 2016

Seethalakshmi

.. Petitioner

vs.

1. The Secretary to the Government
Home, Prohibition and Excise Department
Secretariat
Chennai 600 009

2. The Commissioner of Police
Greater Chennai Police

.. Respondents

Habeas Corpus Petition filed under Article 226 of the Constitution of India, to call for the records in connection with the order of detention passed by the second respondent dated 3.3.2016 in Memo No.232/BCDFGISSSV/2016 against the petitioner's husband Srinivasan, Male, aged 37 years, S/o.Murugesan, who is confined at Centrall Prison, Puzhal II, Chennai and set aside the same and direct the respondents to produce the detenu before this Hon'ble Court and set him at liberty.

For Petitioner : Mr.S.Senthilvel

For Respondents: Mr.V.M.R.Rajendran
Addl.Public Prosecutor

WEB COPY
O R D E R

[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 records, relating to the detention order dated 3.3.2016 passed in No.232/BCDFGISSSV/2016 by the detaining authority, who has been arrayed as the second respondent herein, against the detenu by name Srinivasan, son of Murugesan and quash the same.

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

i. S.14 Peerkankaranai PS Crime No.1405/2013 under sections 457 and 380 of Indian Penal Code.

ii. S.15 Selaiyur PS Crime No.9/2016 under sections 461 and 380 of Indian Penal Code.

iii. S.15 Selaiyur PS Crime No.191/2016 under sections and 511 of Indian Penal Code.

iv. S.14 Peerkankaranai PS Crime No.143/2016 under sections 457 and 380 of Indian Penal Code.

v. S.15 Selaiyur PS Crime No.281/2016 under section 379 of Indian Penal Code.

3. Further it is averred in the affidavit that on 5.2.2016, one Velayudhan, son of Malaiyan, as defacto complainant, has given a complaint against the detenu to the Inspector of Police, Peerkankaranai Police Station and the same has been registered in Crime No.358 of 2016 under sections 341, 397, and 506(ii) of Indian Penal Code and ultimately requested the detaining authority to invoke Act 14 of 1982 against the detenu.

4. The detaining authority, after perusing the averments made in the affidavit and other connected documents, has derived subjective satisfaction 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 wife of the detenu, as petitioner.

5. On the side of the respondents, counter has not been filed.

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

7. The learned Additional Public Prosecutor, appearing for the respondents, has contended that the representations submitted on the side of the detenu have 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 has been clinchingly stated to the effect that on the side of the detenu, two representations have been submitted, wherein it has been clearly stated to the effect that in between column Nos. 7 to 9 and also in between Column Nos.12 and 13 in respect of two representations, there is a huge delay and the same has not at all been explained on the side of the respondents. Since there is a huge delay in disposing of the representations submitted by the detenu, the same would affect his rights guaranteed under Article 22(5) of the Constitution of India and therefore, the detention order in question is liable to be quashed.

9. In fine, this Habeas Corpus Petition is allowed and the detention order dated 3.3.2016 passed in No.232/BCDFGISSSV/2016 by the second respondent is quashed and the respondents are directed to set the detenu, by name Srinivasan, son of Murugesan, at liberty forthwith, unless he is required to be immured in connection with some other cases.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

To

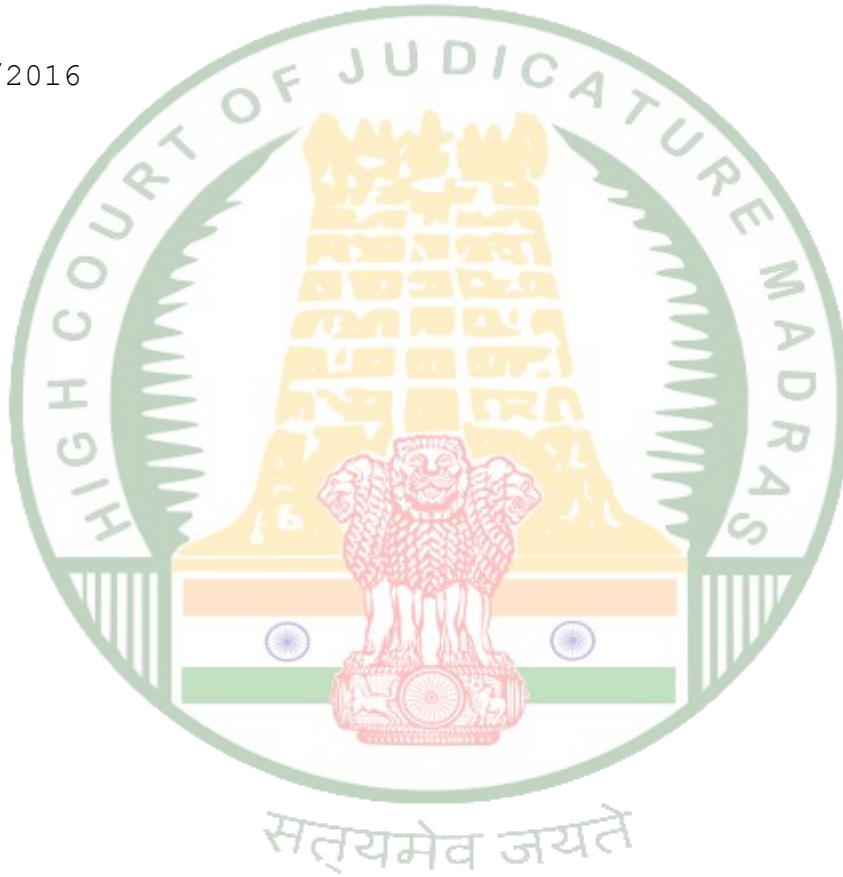
1. The Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai 600 009.
2. The Commissioner of Police,
Greater Chennai Police.
- 3.The Public Prosecutor,
High Court, Madras.

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

5.The Joint Sectary to Government,
Public (Law & Order),
Fort St. George, Chennai-9.

HCP No.581 of 2016

vd[co]
srg 06/09/2016



WEB COPY