

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.582 of 2016

J.Rama Devi Petitioner /Wife of the detenue
vs.

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

2.District Collector &
District Magistrate
Vellore District,
Vellore

... 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 No.C3/D.O.No.16/2016, against the petitioner's husband J.Jegadeesh, male, aged 23 years, son of Jaisankar, who is confined at Central Prison, Vellore 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.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.C3/D.O.No.16/2016, by the detaining authority, who has been arrayed as the second respondent herein, against the detenu, by name J.Jegadeesh, son of Jaisankar and quash the same.

2. The Inspector of Police, Bagayam 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 case:

(1) Bagayam Police Station Crime No.191 of 2015, under Section 379 of the Indian Penal Code.

(2) Bagayam Police Station Crime No.360 of 2015, under Section 379 of the Indian Penal Code.

(3) Bagayam Police Station Crime No.479 of 2015, under Section 379 of the Indian Penal Code.

(4) Bagayam Police Station Crime No.552 of 2015, under Section 379 of the Indian Penal Code.

3. Further, it is averred in the affidavit that on 29.11.2015, one Jaiganesh, son of Somanathan, as defacto complainant, has given a complaint against the detenu in Bagayam Police Station and the same has been registered in Crime No.558 of 2015, under Sections 294(b), 427, 394 read with Section 397 and Section 506(ii) of the Indian Penal Code, and ultimately requested the detaining authority to 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 professional 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 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 call for 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, five clear working days are available and in between Column Nos.12 and 13, thirty one clear working days are available. Likewise, in respect of second representation, in between Column Nos.7 to 9, six clear working days are available and in between Column Nos.12 and 13, twenty 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.C3/D.O.No.16/2016, by the detaining authority against the detenu, by name J.Jegadeesh, son of Jaisankar, 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

To

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

2.District Collector &
District Magistrate
Vellore District, Vellore.

3.The Superintendent of Police,
Central Prison, Vellore.

4.The Joint Secretary to Government,
Public(Law & Order),
Fort Saint George, Chennai - 9.

5.The Public Prosecutor,
High Court, Madras.

H.C.P.No.582 of 2016

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