

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16-09-2016

CORAM:

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

HCP No.584 of 2016

Suriya Kala .. Petitioner/Mother of detenue

Vs.

1. The Secretary to Government
Home, Prohibition and Excise Department
Secretariat
Chennai - 600 009
2. The Commissioner of Police
Greater Chennai .. Respondents

Habeas Corpus Petition filed under Article 226 of the Constitution of India, praying to issue writ of habeas corpus calling for the records in connection with the detention order dated 15-02-2016 in Memo No.114/BCDFGISSSV/2016 against the petitioner's son Sathya male aged about 23 years S/o. Durai, who is confined at Central Prison, Puzhal II, Chennai and set aside the same and direct the respondents to produce the detenu before this Court and set him at liberty and pass orders.

For Petitioner : Mr. K. Shanmugam

For Respondents: Mr.V.M.R.Rajentran

Addl.Public Prosecutor

सतयमेव जयते
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 detention order dated 15-02-2016 in Memo No.114/BCDFGISSSV/2016 against the petitioner's son Sathya male aged about 23 years S/o. Durai, who is confined at Central Prison, Puzhal II, Chennai and quash the same.

2. The Inspector of Police, B3 Fort Police Station as sponsoring authority, has submitted an affidavit to the detaining authority, wherein it is stated that the detenu has involved in the following adverse cases:

- i. B3 Fort P.S. Cr.No.69of 2012 under Sections 147 and 302 IPC
- ii. B3 Fort P.S. Cr.No.11 of 2016 under Sections 341, 324 and 506(ii) IPC
- iii.

3. Further, it is averred in the affidavit that one Raja S/o. Raji as defacto complainant has given a complaint in B3 Fort Police Station and the same has been registered under Crime No.12 of 2016 Sections 341, 294(b), 323, 336, 427, 397 and 506 (ii)IPC and ultimately prayed 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 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 sister of the detenu, as petitioner.

5. On the side of the respondents a detailed counter has been filed wherein it has been contended that the averments made in the petition are false and the detaining authority after considering the materials available on record has rightly passed the 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 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. Per contra the learned Additional Public Prosecutor has represented that the representations submitted on the side of the detenu has been duly disposed of without any delay and therefore, the detention order need not be quashed.

8. On the side of the respondents, a proforma has been submitted wherein it has been clearly stated that remarks have been called for on 28-03-2016 and remarks received on 15-04-2016. Likewise concerned file has reached the Deputy Secretary on 06-04-2016 and the concerned Minister has passed rejection order on 17-05-2016. Therefore, it is quite clear that in between Column Nos.7 and 9, 12 and 13, huge delay has occurred and no satisfactory explanation has been given 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 is liable to be quashed.

In fine, the habeas corpus petition is allowed and the detention order dated 15-02-2016 passed in Memo No.114/BCDFGISSSV/2016 is quashed and the respondents are directed to set the detenu, by name Sathya, at liberty forthwith, unless he is required to be incarcerated in any other case.

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

To

1. The Secretary to Government
Home, Prohibition and Excise Department
Secretariat
Chennai - 600 009
2. The Commissioner of Police, Greater Chennai.
Chennai Police
3. The Joint Secretary, PUblic (L&O) fort St.George,
Chennai.
4. The Superintendent, Central Prison, Puzhal II,
Chennai.
5. The Public Prosecutor
High Court, Madras.

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सत्यमेव जयते

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