

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22-09-2016

CORAM:

THE HON'BLE MR.JUSTICE A.SELVAM

AND

THE HON'BLE MR.JUSTICE P.KALAIYARASAN

H.C.P.No.591 of 2016

Sathyavani

.... Petitioner

Vs.

1. The State of Tamilnadu
rep.by the Secretary to Government
Prohibition and Excise Department, (Home)
Chennai 9

2. The Commissioner of Police,
Greater Chennai,
Veperry,
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 records of the detention made in Memo No.128/B.C.D.F.G.I.S.S.S.V./2016, dated 17.2.2016 passed by the Commissioner of Police, Greater Chennai Police, Vepery, Chennai-7 the second respondent herein and set aside the same and direct the respondents to produce the detenu before this court and the detenu Thiru Vinothkumar, son of Ramesh, aged 23 years, now confined in Central Prison, Puzhal II, Chennai, at liberty.

For Petitioner : Mr. R.Balakrishnan

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 17.02.2016, passed in No.128/BCDFGISSSV/2016, by the detaining authority, who has been arrayed as the second respondent herein, against the detenu, by name Vinothkumar, Son of Ramesh and quash the same.

2. The Inspector of Police, Thiruverkadu 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:

(1) T5, Thiruverkadu Police Station Cr.No.755 of 2015 under Section 379 of the Indian Penal Code.

(2) T.12, Poonamallee Police Station Cr.No.633 of 2015, under Section 379 of the Indian Penal Code.

(3) T.12, Poonamallee Police Station Cr.No.802 of 2015, under Section 379 of the Indian Penal Code.

(4) T.5, Thiruverkadu Police Station Cr.No.1010 of 2015, under Section 379 of the Indian Penal Code.

(5) T.5, Thiruverkadu Police Station Cr.No.1034 of 2015, under Section 379 of the Indian Penal Code.

3. Further, it is averred in the affidavit that on 28.01.2016, one Michale, son of Fransis, as defacto complainant, has lodged a complaint against the detenu in Thiruverkadu Police Station and the same has been registered in Crime No.82 of 2016, under Sections 341, 294(b), 323, 427, 392, 397 and 506(ii) 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 professional property 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 mother of the detenu, as petitioner.

5. On the side of the respondents, a detailed counter has been filed, wherein it has been contended interalia to the effect that all the averments made in the affidavit are false and the detaining authority, after considering the rich bad

antecedents of the detenu, has rightly invoked Act 14 of 1982 and thereby detained him as 'Goonda' by way of passing the impugned detention order 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 submitted 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 has contended that the representation submitted on the side of the detenu has been duly disposed of without delay and therefore, the detention order does not call for any interference.

8. On the side of the respondents, a proforma has been submitted, wherein it has been clearly stated that in between Column Nos.7 to 9, four clear working days are available and in between Column Nos.12 and 13, twenty eight clear working days are available and no proper explanation has been given on the side of the respondents with regard to such delay and 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 17.02.2016, passed in No.128/BCDFGISSSV/2016, by the detaining authority against the detenu, by name Vinothkumar, son of Ramesh, 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/-सत्यमेव जयते
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

msk

To

1. The Secretary
Home, Prohibition and Excise Department,
Fort St.George, Chennai 9

2.The Commissioner of Police,
Greater Chennai,
Veperry,Chennai-600 007

3. The Superintendent,
Central Prison, Puzhal-II, Chennai.

4.The Public Prosecutor,
High Court, Madras

5 The Joint Secretary for Government of Tamil Nadu
Public (Law & Order)
Fort St. George, Chennai 9

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SCD (CO)
MD : 22/09/2016



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