

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.593 of 2016

Amudha

... Petitioner

Vs.

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

2. The District Collector and  
District Magistrate of Vellore District  
Vellore 9

... Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of habeas corpus calling for the records relating to the detenu's detention order passed by the 2nd respondent in Memo No.C3/D.O.No.15/2016 dated 29.2.2016 and set aside the same and produce the detenu Kesavan, son of Dharmalingam, aged about 27 years, now detained in Central Prison, Vellore before this Hon'ble Court and set him at liberty forthwith.

For Petitioner : Mr.Saravanan

For Respondents : Mr.V.M.R.Rajentren,  
Additional Public Prosecutor

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 29.2.2016, passed in No. C3/D.O.No.15/2016, by the detaining authority, who has been arrayed as the second respondent herein, against the detenu, by name Kesavan, son of Dharmalingam, and quash the same.

2. The Inspector of Police, Virinchipuram 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) Vellore Taluk Police Station Crime No.178 of 2014, registered under Sections 323, 363, 506(ii) of IPC (ii) altered into Sections 323, 363, 506(ii), 120-B of IPC altered into Sections 323, 324, 365, 384, 506(ii) and 120-B of IPC altered into Sections 323, 324, 364(A), 365, 384 and 506(ii) and 120-B of Indian Penal Code

(2) Vellore Taluk Police Station Crime No.415 of 2015, registered under Sections 363, 384 506(i) of IPC (ii) altered into Sections 363, 342, 324, 385, 506(ii) of IPC altered into Sections 363, 342, 324, 385, 506(ii) and 302 of IPC altered into Sections 120-B, 147, 148, 363, 342, 324, 385, 506 (ii) and 302 of Indian Penal Code.

3. Further, it is averred in the affidavit that on 9.1.2016, at about 5 p.m., one Venkatesan, son of Kasi Gounder, as defacto complainant, has given a complaint to the Special Sub Inspector of Police, Virinchipuram Police Station against the detenu and the same has been registered in Crime No.10 of 2016 under sections 294(b), 323, 427, 336, and 506(i) 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 mother 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 all the averments made in the petition are false and the detaining authority, after considering the relevant records placed before him, has rightly passed the impugned 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 submitted 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 in between Column

Nos.7 to 9, six clear working days are available and in between Column Nos.12 and 13, twenty seven clear working days are available and no explanation has been given on the side of the respondents for such 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 29.2.2016, passed in No. C3/D.O.No. 15/2016 by the detaining authority against the detenu, by name Kesavan, son of Dharmalingam, 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 VII)

//True Copy//

Sub Assistant Registrar

ajr

To

1. The Secretary to Government  
State of Tamilnadu  
Prohibition and Excise Department (Home)  
Chennai 9
2. The District Collector and  
District Magistrate of Vellore District  
Vellore 9
3. The Superintendent  
Central Prison  
Vellore.
4. The Joint Secretary to Government,  
Public(Law & Order),  
Fort Saint George, Chennai - 9.
5. The District Collector,  
Vellore.
6. The Director General of Police,  
Chennai 04.
7. The Public Prosecutor,  
High Court, Madras.