

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27-09-2016

CORAM:

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

H.C.P.No.597 of 2016

Gopi

... Petitioner/Detenu

Vs.

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

2.Commissioner of Police,
Greater Chennai Police

... 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 06.02.2016 in Memo No.64/BCDFGISSSV/2016, against the detenu Gopi, male aged 24 years, Son of Madhavan, who is confined at Central Prison, Puzhal II, Chennai and set aside the same and direct the respondents to produce the detenu before the Hon'ble Court and set him at liberty.

For Petitioner : Mr. S.Senthilvel

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 06.02.2016, passed in No.64/BCDFGISSSV/2016, by the detaining authority, who has been arrayed as the second respondent herein, against the detenu, by name Gopi, Son of Madhavan and quash the same.

2. The Inspector of Police, Kundrathur 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.T-13 Kundrathur Police Station, Cr.No.30 of 2016 under Section 392 of the Indian Penal Code.

2.T-15 Kundrathur Police Station, Cr.No.69 of 2016 under Sections 341 and 392 of the Indian Penal Code.

3. Further, it is averred in the affidavit that on 20.01.2016, one Maran, son of Arumugam, has lodged a complaint against the detenu in T-13, Kundrathur Police Station and the same has been registered in Crime No.72 of 2016, under Sections 341, 294(b), 336, 427, 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 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 detenu himself, as petitioner.

5. On the side of the respondents, a detailed counter has been filed, wherein it has been contended inter alia 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 branded the detenu as "Goonda" and therefore, the present petition deserves to be dismissed.

6. The learned counsel appearing for the petitioner/detenu has contended that on the side of the petitioner/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 appearing for the respondents has contended that the representation submitted by 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 has been clearly stated that in between Column Nos.12 and 13, twenty seven clear working days are available and no proper explanation has been given on the side of the respondents with regard to such huge 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.

No.64/BCDFGISSSV/2016, by the detaining authority against the detenu, by name Gopi, son of Madhavan, 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 IV)

//True Copy//

Sub Assistant Registrar

msk

To

1. The Secretary to the Government,
Home Prohibition and Excise Department,
Secretariat,
Chennai-600 009.
2. The Joint Secretary to Government,
Public(Law & Order),
Fort Saint George, Chennai - 9.
3. The Commissioner of Police,
Greater Chennai Police.
4. The Superintendent of Police
Central Prison, Puzhal II, Chennai
5. The Public Prosecutor,
High Court, Madras.

VGI(CO)
CA(27/09/2016)

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