

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.604 of 2016

Muthu Petitioner/
Brother of the detenue

vs.

1.The State of Tamil Nadu,
rep.by its Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George, Chennai-9.

2.The Commissioner of Police,
Greater Chennai Police,
Vepery, 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 entire records, relating to petitioner's brother detention under Tamil Nadu Act 14 of 1982 vide detention order, dated 18.2.2016, on the file of the second respondent herein made in proceedings BCDFGISSSV No.147/2016 and quash the same as illegal and consequently direct the respondents herein to produce the said petitioner's brother namely Immanuvel son of Karuppasamy, aged 38 years before this Court and set the petitioner's brother at liberty from detention, now petitioner's brother detained at Central Prison-II, Puzhal, Chennai-600 066.

For Petitioner : Mr.C.C.Chellappan

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 18.2.2016, passed in BCDFGISSSV No.147/2016, by the detaining authority, who has been arrayed as the second respondent herein, against the detenu, by name Immanuvel, Son of Karuppasamy and quash the same.

2. The Inspector of Police, Central Crime Branch-I, Chennai, as sponsoring authority, has submitted an affidavit to the detaining authority, wherein it is averred that on 15.02.2016, one Madhankumar, Sub-Inspector of Police and others working in Central Crime Branch, video Piracy Cell, have found the detenu and others in possession of some DVDs and CDs without any licence or power and ultimately a case has been registered in Crime No.45 of 2016, under Sections 52(A), 68(A), 51, read with Sections 63 and 65 of the Copy Right Act, 1957 and also under Sections 292(2)(a) of the Indian Penal Code and ultimately requested the detaining authority to invoke Act 14 of 1982 against the detenu.

3. 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 in possession of DVDs and CDs illegally and ultimately branded him as Video Pirator, by way of passing the impugned detention order and in order to quash the same, the present petition has been filed by the brother of the detenu, as petitioner.

4. Even though the present petition has been posted today finally for filing counter, counter has not been filed on the side of the respondents. Under such circumstances, this petition is disposed of on merits, on the basis of the contentions put forth on the side of the petitioner.

5. The learned counsel appearing for the petitioner has contended that on the side of the detenu, a representation dated 8.3.2016, has been sent to the Government of Tamil Nadu and the same has been disposed of only on 5.4.2016 and in between 8.3.2016 and 5.4.2016, several working days are available, but the representation has not been disposed of without delay. Under such circumstances, the detention order in question is liable to be quashed.

6. On the side of the petitioner, a copy of representation dated 8.3.2016 has been submitted. Further, on the side of the petitioner, a reply dated 5.4.2016 has also been submitted.

7. On the side of the respondents, a proforma has been submitted, wherein it has been clearly stated that the remarks have been called for on 14.3.2016 and the remarks have been received on 23.3.2016. Therefore, in between Column Nos.7 to 9, eight clear working days are available. Further it is seen from the pro-forma that in between Column Nos.12 and 13, nine clear working days are available and no 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 in question is liable to be quashed.

In fine this Habeas Corpus Petition is allowed. The detention order dated 18.02.2016, passed in BCDFGISSSV No.147 of 2016, by the detaining authority against the detenu, by name Immanuvel, son of Karuppasamy, 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.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

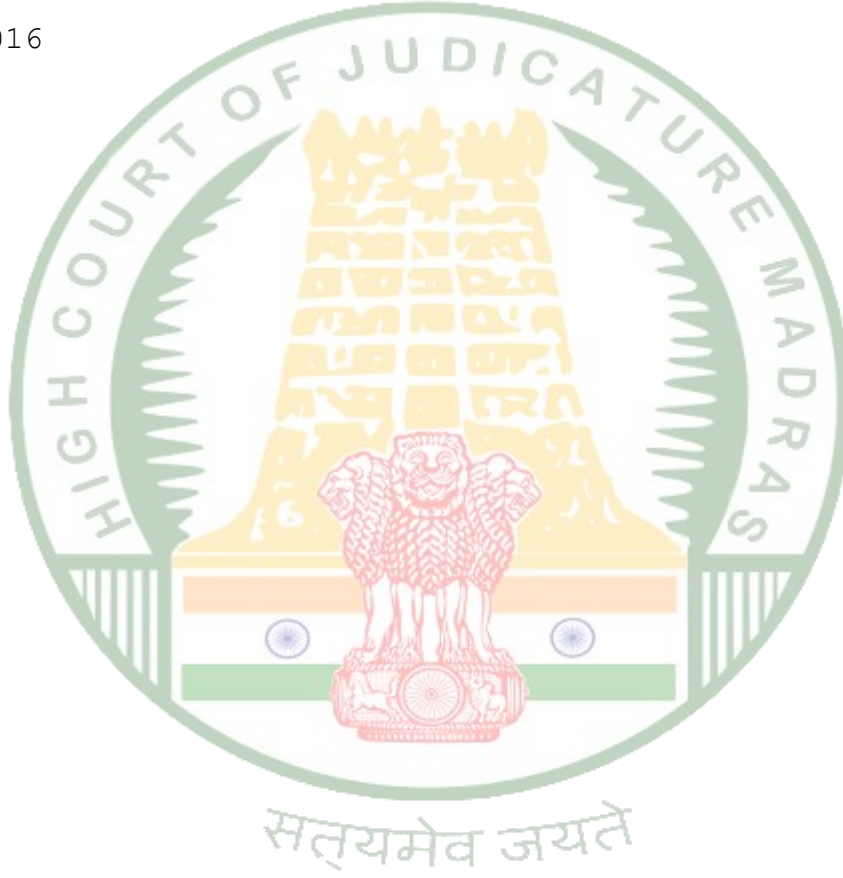
To

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George, Chennai-9.
- 2.The Joint Secretary to the Government of Tamil Nadu
Public law and order Fort St.George Chennai-9
- 3.The Commissioner of Police,
Greater Chennai Police,
Vepery, Chennai-600 007
- 4.The Superintendent of Police
Central Prison, Puzhal-II, Chennai

5.The Public Prosecutor,
High Court, Madras

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