

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **29.09.2016**

CORAM:

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

H.C.P.No.610 of 2016

S.Muthupandian

... Petitioner

vs.

1. The Secretary to the Government
Home, Prohibition and Excise Department,
Government of Tamil Nadu
Fort St.George, Chennai 9

2.The Commissioner of Police
Chennai City Police
Office of the Commissioner of Police
Egmore, Chennai-8

... Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of habeas corpus to call for the records relating to the detention order vide Memo No.144/BCDFGISSV/2016 dated 18.2.2016 passed by the second respondent and set aside the same and direct the respondents to produce the body of the detenu Kottaisamy, son of Ramaiyathevar, aged about 42 years, now confined in Central Prison, Puzhal before this Hon'ble Court and to set him at liberty forthwith.

For Petitioner : Mr.P.Rajkumar Pandian

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 18.2.2016, passed in

No.144/BCDFGISSV/2016 by the detaining authority, who has been arrayed as the second respondent herein, against the detenu, by name Kottaisamy, son of Ramaiah Devar, and quash the same.

2. The Inspector of Police, Central Crime Branch, as sponsoring authority, has submitted an affidavit to the detaining authority, wherein it is averred that the detenu has involved in the following adverse case:

(1) Central Crime Branch Crime No.146 of 2015, registered under Sections 419, 420, 465, 468, 471 r/w 34 of Indian Penal Code

3. Further, it is averred in the affidavit that one Sadharam Ammal, wife of Alagarsamy, as defacto complainant, has lodged a complaint against the detenu and others in Central Crime Branch and the same has been registered in Crime No.147 of 2015 under sections 419, 420, 465, 468 and 471 r/w 34 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 'Slum Grabber' by way of passing the impugned detention order and in order to quash

the same, the present petition has been filed by the brother-in-law of the detenu, as petitioner.

5. On the side of the respondents, a detailed counter has been filed, wherein it has been contended to the effect that all the averments made in the petition are false and the the detaining authority, after considering the averments made in the affidavit and other connected documents, has rightly passed the impugned detention order and therefore, the detention order passed by the detaining authority need not be quashed.

6. The learned counsel appearing for the petitioner has contended that on the side of the detenu, two representations have been given and the same have 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 representations submitted on the side of the detenu have 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 respect of the first representation, in between Column Nos.7 to 9, six clear working days are available and in between Column Nos.12 and 13, eleven clear working days are available and in respect of the second representation, in between Column Nos.7 to 9, nine clear working days are available and in between Column Nos.12 and 13, twenty four clear working days are available and no explanation has been given on the side of the respondents with regard to such 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 18.2.2016, passed in No.144/BCDFGISSV/2016, by the detaining authority against the detenu, by name Kottaisamy, son of Ramaiah Devar, 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.

(A.S.J.) (P.K.J.)
29.09.2016

Index:Yes/no
ajr

To

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Chennai City Police
Office of the Commissioner of Police
Egmore, Chennai-8

3. The Superintendent
Central Prison
Puzhal, Chennai

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AND
P.KALAIYARASAN,J**

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