

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.613 of 2016

Lakshmi

... Petitioner

vs.

1.The Commissioner of Police
Chennai Police

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

... Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of habeas corpus calling for the records in Memo No.173/BCDFGISSV/2016 on the file of the first respondent, quash the detention order dated 22.2.2016 and direct the production of the detenu Saravanan, son of Krishnamurthy, presently detained at the Central Prison, Puzhal, under the Tamil Nadu Act 14 of 1982 before this Hon'ble Court and set him at liberty.

For Petitioner : Mr.A.M.Rahamath Ali
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 22.02.2016, passed in

No.173/BCDFGISSV/2016, by the detaining authority, who has been arrayed as the first respondent herein, against the detenu, by name Saravanan, son of Krishnamurthy and quash the same.

2. The Inspector of Police, Muthaialpet 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) B2 Esplanade Police Station Crime No.37 of 2016, registered under Section 381 of Indian Penal Code

(2) B.2 Esplanade Police Station Crime No.67 of 2016, registered under Section 379 of the Indian Penal Code

(3) N3 Muthialpet Police Station Crime No.64 of 2016 registered under section 392 of the Indian Penal Code

(4) C3 Seven Wells Police Station Crime No.77 of 2016, registered under Section 392 of the Indian Penal Code.

3. Further, it is averred in the affidavit that on 30.1.2016, one Alexander, son of Jayaraman, as defacto complainant, has lodged a complaint against the detenu in Muthialpet Police Station and the same has been registered in Crime No.66 of 2016 under sections 341, 336, 294(b), 427, 392 r/w 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 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 the averments made in the affidavit are false and 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 same is not liable to be set aside.

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 does not call for

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, ten clear working days are available and in between Column Nos.12 and 13, twenty eight 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 22.02.2016, passed in No.173/BCDFGISSV/2016, by the detaining authority against the detenu, by name Saravanan, son of Krishnamurthy, 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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3. The Superintendent
Central Prison
Puzhal, Chennai

**A.SELVAM,J.
AND
P.KALAIYARASAN,J**

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