

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.10.2016

CORAM:

THE HON'BLE MR.JUSTICE A.SELVAM

AND

THE HON'BLE MR.JUSTICE P.KALAIYARASAN

H.C.P.No.620 of 2016

C.Kalaiselvi ... Petitioner

vs.

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

2.The Commissioner of Police
Salem City
Salem

... Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of habeas corpus to call for the records on the file of the 2nd respondent in detention order C.M.P.No.8/I.T.O/Salem City/2016, dated 27.01.2016 and direct the respondents to produce the detenu, namely Chandrasekaran, aged about 55 years, son of Ramalingam, now kept in Central Prison, Salem before this Hon'ble Court and quash or set aside the same and set him at liberty.

For Petitioner : MrK.A.Ravindran

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 27.01.2016, passed in C.M.P.No.8/I.T.O/Salem City/2016, by the detaining authority, who has been arrayed as the second respondent herein, against the detenu, by name Chandrasekaran, son of Ramalingam and quash the same.

2. The Inspector of Police, All Women Police Station, Salem Town, as sponsoring authority, has submitted an affidavit to the detaining authority, wherein it is averred that on 6.1.2016, one Tmt.Jenitha Jayaveeran, wife of Jacob Jayaveeran, as defacto complainant, has given a complaint against the detenu and the same has been registered in Crime No.1 of 2016 under sections 3(2)(a), 4(2)(c) and 5 of Immoral Traffic (Prevention) Act and Section 370(A) (2) 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 nothing but an immoral traffic offender and ultimately branded him as an 'Immoral Traffic Offender' by way of passing the impugned detention order and in order to quash the same, the present petition has been filed by the wife of the detenu, as petitioner.

4. On the side of the respondents, counter has not been filed. Under such circumstances, the present Habeas Corpus Petition is disposed of on merits on the basis of available materials on record.

5. 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.

6. 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 does not call for any interference.

7. 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, ten clear working days are available and in between Column Nos.12 and 13, ten clear working days are available and likewise, in respect of the second representation, in between Column Nos.7 to 9, five clear working days are available and in between Column Nos.12 and 13, ten 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 27.01.2016, passed in C.M.P.No.8/I.T.O/Salem City/2016, by the detaining authority against the detenu, by name Chandrasekaran, son of Ramalingam, 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/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

ajr

To

1. The Secretary to Government Assistant Registrar
Home, Prohibition and Excise Department,
Fort St.George, Chennai 9
 - 2.The Commissioner of Police
Salem City
Salem
 3. The Superintendent
Central Prison
Salem
 4. The Joint Secretary
Home, Prohibition and Excise Department
Fort St.George, Chennai 9
 5. The Public Prosecutor
High Court, Chennai
- +1 CC to M/s. K.A. Ravindran, Advocate Sr.No.56998

H.C.P.No.620 of 2016

UG (CO)

MD : 04/10/2016