

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.10.2016

CORAM:

THE HON'BLE MR.JUSTICE A.SELVAM

AND

THE HON'BLE MR.JUSTICE P.KALAIYARASAN

H.C.P.No.625 of 2016

Saraswathi

... Petitioner

vs.

1. State of Tamilnadu
rep.by its Secretary to Government
Home, Prohibition and Excise Department,
Secretariat, Chennai 9

2.The District Collector and
District Magistrate of Kancheepuram District
Kancheepuram

... Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of habeas corpus to call for the entire records relating to the petitioner's son detention under Tamil Nadu Act 14 of 1882 vide detention order dated 09.03.2016 on the file of the second respondent herein made in proceedings BCDFGISSSV No.19/2016 and quash the same as illegal and consequently direct the respondents herein to produce the petitioner's son, namely Raja @ Vasool Raja, son of Alexander, aged 30 years before this Hon'ble Court and set the petitioner's son at liberty from detention, now petitioner's son detained at Central Prison, Vellore.

For Petitioner : Mr.C.C.Chellappan

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 09.03.2016, passed in No.BCDFGISSSV No.19/2016, by the detaining authority, who has been arrayed as the second respondent herein, against the detenu, by name Raja @ Vasool Raja, son of Alexander and quash the same.

2. The Inspector of Police, Kanchi Taluk 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) Kanchi Taluk Police Station Crime No.604 of 2014, registered under Sections 120(b), 109, 147, 148, 342, 302 and 149 of Indian Penal Code

(2) Siva Kanchi Police Station Crime No.34 of 2016, registered under Sections 147, 148, 294(b), 353, 307 of the Indian Penal Code r/w 25 of Indian Arms Act

3. Further, it is averred in the affidavit that on 21.2.2016, one Manikandan, son of Annamalai, as defacto complainant, has lodged a complaint against the detenu in Kanchi Taluk Police Station and the same has been registered in Crime No.134 of 2016 under sections 294(b), 307, 397 and 506(ii) of the Indian Penal Code and 3(i) of Tamil Nadu Property (Prevention of Damage and Loss) Act, 1992 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 all the averments made in the affidavit are false and the detaining authority, after considering the materials placed before him and also after considering the fact that the detenu is a professional offender, has rightly branded him as 'Goonda' by way of passing the impugned order and therefore, the impugned detention order does not call for any interference and altogether, the present petition deserves to be dismissed.

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 need not be quashed.

8. On the side of the respondents, a proforma has been submitted, wherein it is clearly stated that in between Column Nos.7 to 9, five clear working days are available and in between Column Nos.12 and 13, nineteen clear working days are available and no explanation has been given on the side of the respondents with regard to huge delay in disposing of the representation submitted on the side of the detenu 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 09.03.2016, passed in No.BCDFGISSSV No.19/2016, by the detaining authority against the detenu, by name Raja @ Vasool Raja, son of Alexander, 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. State of Tamilnadu
rep.by its Secretary to Government
Home, Prohibition and Excise Department,
Secretariat, Chennai 9
- 2.The District Collector and
District Magistrate of Kancheepuram District
Kancheepuram
3. The Superintendent
Central Prison, Vellore
- 4 The Joint Secretary to Government Public
(Law and Order) Department,
Fort St. George, Chennai 9

5 The Public Prosecutor
High Court, Madras

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CTK (CO)
MD : 03/10/2016



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