

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.09.2016

CORAM:

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

H.C.P.No.627 of 2016

L.Usha Petitioner /Wife of the detenue

vs.

1. Chairman
Advisory Board
No.32, Rajaji Salai
Singaravelar Maaligai
Chennai 1

2. Principal Secretary to the Government
of Tamil Nadu
Home, Prohibition and Excise Department,
Secretariat, Chennai 9

3.The Commissioner of Police
O/o. The Commissioner of Police
Goondas section
Vepery, Chennai 7

... Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of habeas corpus calling for the records in connection with the order of detention passed by the third respondent, the Commissioner of Police, Chennai dt 18.2.2016 in Memo No.142/BCDFGISSSV/2016 against the detenu, J.John Lazar, male aged 41 years, son of P.L.Joseph, who is confined at Central Prison-II, Puzhal, Chennai and quash the same as illegal, secondly directing the respondents No.1 to 3 to produce the petitioner's husband John Lazar (detenu) before this Hon'ble Court and to set him at liberty from the detention.

For Petitioner : Mr.K.Devaarputharaj

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.142/BCDFGISSSV/2016 by the detaining authority, who has

been arrayed as the third respondent herein, against the detenu, by name J. John Lazar, son of P.L. Joseph, 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 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 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 wife 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 detaining authority, after considering the documents placed before him by the sponsoring authority, has rightly branded the detenu as "Slum Grabber" by way of passing the present impugned detention order and the same is not liable to be quashed and therefore, 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. Per contra, 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 any 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, 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.142/BCDFGISSV/2016, by the detaining authority against the detenu, by name J.John Lazar, son of P.L.Joseph, 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/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

ajr

To

1. Chairman
Advisory Board
No.32, Rajaji Salai
Singaravelar Maaligai, Chennai 1
2. Principal Secretary to the Government
of Tamil Nadu
Home, Prohibition and Excise Department,
Secretariat, Chennai 9
3. The Joint Secretary to Government
Public (Law & Order), Chennai 9.
4. The Commissioner of Police
O/o. The Commissioner of Police
Goondas section
Vepery, Chennai 7
5. The Superintendent
Central Prison-II
Puzhal, Chennai
6. The Public Prosecutor,
High Court, Madras.

H.C.P.No.627 of 2016

ca co
kra 28.09.2016