

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.628 of 2016

Lalitha

... Petitioner

vs.

1. The State of Tamil Nadu
Rep.by its Secretary to Government
Department of Prohibition and Excise (Home),
Fort St.George, Chennai 9

2.The Commissioner of Police
Chenn City Police
Commissiioner Office, Vepery
Chennai -7

... 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 impugned order in No.262/BCDFGISSV/2016 dated 07.03.2016 on the file of the second respondent herein and set aside the same as illegal and direct the respondents to produce the detenu Venkateswara Rao, son of Hanumantha Rao, aged about 40 years, now confined at Central Prison, Puzhal, Chennai before this Hon'ble Court and set him at liberty.

For Petitioner : Mr.Ilayaraj Kandasamy

For Respondents:Mr.V.M.R.Rajentren,
Additional Public Prosecutor

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 07.03.2016, passed in No.262/BCDFGISSV/2016, by the detaining authority, who has been arrayed as the second respondent herein, against the detenu, by name Venkateswara Rao, son of Hanumantha Rao and quash the same.

<https://hcservices.ecourts.gov.in/hcservices/> 2. The Inspector of Police, Anti Vice Squad 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) Anti Vice Squad No.II Crime No.26 of 2013, registered under Section 3(2)(a), 4(1) and 5(1)(a) of ITP Act

(2) Anti Vice Squad No.II Crime No.01 of 2014, registered under Section 3(2)(a), 4(1) and 5(1)(a) of ITP Act

3. Further, it is averred in the affidavit that on 1.03.2016, on the basis of information given by one Naresh Kumar, Grade I Police Constable, Anti Vice Squad, it is found that the detenu has been running a brothel home and ultimately registered a case against him in Crime No.9 of 2016 under sections 3(2)(a), 4(1), 5(1)(a), 6(1) and 7(1) of ITP Act 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 professional 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 mother of the detenu, as petitioner.

5. On the side of the respondents, a counter has been filed, wherein it is averred to the effect that the detaining authority, after considering the materials placed before him, has rightly invoked Act 14 of 1982 against the detenu 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. 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 has been clearly stated that in between Column Nos.7 to 9, seven clear working days are available and in between Column Nos.12 and 13, 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 07.03.2016, passed in No.262/BCDFGISSV/2016, by the detaining authority against the detenu, by name Venkateswara Rao, son of Hanumantha Rao, 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 II)

//True Copy//

Sub Assistant Registrar

ajr

To

1. The Secretary to Government
Department of Prohibition and Excise (Home),
Fort St.George, Chennai 9
- 2.The Commissioner of Police
Chenn City Police
Commissiioner Office, Vepery
Chennai -7
3. The Superintendent
Central Prison
Puzhal, Chennai
4. The Joint Secretary to Government
Public (Law & Order),
Fort St.George, Chennai 9.
5. The Public Prosecutor,
High Court, Madras 104.

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