

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.09.2016

CORAM:

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

H.C.P.No.632 of 2016

Venkatesan

... Petitioner

vs.

1. The Secretary to the Government
Home, Prohibition and Excise Department,
Secretariat, Chennai 9

2.District Collector &
District Magistrate
Vellore District
Vellore 9

... Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of habeas corpus to call for the records in connection with the order of detention passed by the second respondent dated 19.02.2016 in C3/D.O.No.11/2016 against the petitioner's son V.Jegadeesh, male, aged 25 years, son of Venkatesan, who is confined at Central Prison, Vellore and set aside the same and direct the respondents to produce the detenu before this Hon'ble Court and set him at liberty.

For Petitioner : Mr.D.Balaji

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 19.02.2016, passed in C3/D.O.No.11/2016, by the detaining authority, who has been arrayed as the second

respondent herein, against the detenu, by name V.Jegadeesh, son of Venkatesan and quash the same.

2. The Inspector of Police, Bagayam 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) Bagayam Police Station Crime No.360 of 2015, registered under Section 379 of Indian Penal Code

(2) Bagayam Police Station Crime No.409 of 2015, registered under Section 379 of Indian Penal Code

(3) Bagayam Police Station Crime No.479 of 2015, registered under Section 379 of Indian Penal Code

(4) Bagayam Police Station Crime No.537 of 2015, registered under Section 379 of Indian Penal Code.

3. Further, it is averred in the affidavit that on 29.11.2015, one Jaiganesh, son of Somanathan, as defacto complainant, has given a complaint to the Sub Inspector of Police, Bagayam Police Station against the detenu and the same has been registered in Crime No.558 of 2015 under sections 341, 294(b), 427, 394 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 professional 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 father 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 derived subjective satisfaction and consequently passed the impugned order of detention and therefore, the same is not liable to be quashed.

6. The learned counsel appearing for the petitioner has contended that on the side of the detenu, two representations have been submitted and the same have 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 representations given on the side of the detenu have 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 with regard to first representation, in between Column Nos.7 to 9, eight clear working days are available and in between Column Nos.12 and 13, nineteen clear working days are available and in respect of the second representation, in between Column Nos.7 to 9, twenty five clear working days are available and in between Column Nos.12 and 13, seven 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 representations 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 19.02.2016, passed in C3/D.O.No.11/2016, by the detaining authority against the detenu, by name V.Jegadeesh, son of Venkatesan, 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.

Index:Yes/no
ajr

(A.S.J.) (P.K.J.)
30.09.2016

To

1. The Secretary to the Government
Home, Prohibition and Excise Department,
Secretariat, Chennai 9
2. District Collector &
District Magistrate
Vellore District
Vellore 9
3. The Superintendent,
Central Prison
Vellore
4. The Public Prosecutor
High Court of Madras
Chennai

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

ajr

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