

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

HCP No.636 of 2016

Subha

.. Petitioner/Wife
of the detenu

Vs.

1. The State of Tamil Nadu
Rep. by its Secretary to Government
Home, Prohibition and Excise Department
Fort St. George, Chennai - 600 009
2. The Commissioner of Police /
Detaining Authority, Coimbatore City,
Coimbatore District.

.. Respondents

Habeas Corpus Petition filed under Article 226 of the Constitution of India, praying to issue writ of habeas corpus to produce the body of petitioner's husband who is the detenu by name T.Paramasivam aged about 51 years before this Court and set him at liberty forthwith by calling for the records pertaining to the detention order dated 05.03.2016 in C.No.06/G.IS/2016 on the file of the second respondent herein and quash the same.

For Petitioner : Mr. S.Benazir

For Respondents: Mr.V.M.R.Rajendran

Addl.Public Prosecutor

O R D E R

[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 records relating to detention order dated 05-03-2016 in C.No.06/G/IS/2016 passed by the detaining authority, who has been arrayed as the second respondent herein against the detenu by name T.Paramasivam, S/o.Thangavel Nadar and quash the same.

2. The Inspector of Police, E-2 Peelamedu Police Station as sponsoring authority, has submitted an affidavit to the detaining authority, wherein it is averred that the detenu is involved in the following adverse case :

Coimbatore District, Negamam Police Station Crime No.97 of 2014 registered under Section 302 IPC, altered into Sections 120 (B), 147, 148, 364 and 302 IPC.

3. Further, it is averred in the affidavit that on 15-01-2016 one S.Arulkumaran as defacto complainant has lodged a complaint against the detenu in E-2 Peelamedu Police Station and the same has been registered in Crime No.34 of 2016 under Sections 457, 365, 307, 395 read with 397, 506 (ii) IPC and Section 25 (1) (A) of Arms 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 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 wife of the detenu, as petitioner.

5. On the side of the respondents counter has not been filed. Under the said circumstances, this petition is disposed of on merits on the basis of available materials on record.

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 has represented that the representations submitted 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 is stated that in respect of the first representation, in the remarks Column Nos.7 and 9, 7 clear working days are available and in between Column Nos.12 and 13, 28 clear working days are available. Likewise, in respect of second representation, in the remarks Column Nos.7 and 9, 7 clear working days are available and in between Column Nos.12 and 13, 13 clear working days are available and no satisfactory explanation has been given on the side of the respondents with

regard to huge delay in disposing of the representations submitted on the side of the detenu and that itself would affect the rights of the detenu under Article 22(5) of the Constitution of India and on that ground alone the detention order in question is liable to be quashed.

In fine, the habeas corpus petition is allowed and the detention order dated 05-03-2016 in C.No.06/G/IS/2016 passed by the second respondent is quashed. The respondents are directed to set the detenu by name T.Paramasivam S/o. Thangavel Nadar, at liberty forthwith, unless he is required to be incarcerated in any other case.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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To

1. The State of Tamil Nadu
Rep. by its Secretary to Government
Home, Prohibition and Excise Department
Fort St. George, Chennai - 600 009
2. The Commissioner of Police /Detaining Authority,
Coimbatore City, Coimbatore District.
3. The Superintendent,
Central Prison, Coimbatore.
4. The Joint Secretary to Government
Public (Law & Order)
Fort St.George, Chennai 9.
5. The Public Prosecutor,
High Court, Madras 104.

1 cc to Mr.S.Benazir, Advocate, sr.56545

HCP No.636 of 2016

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