

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.639 of 2016

Nithya

.... Petitioner

vs.

1.The Government of Tamil Nadu,
rep.by its Secretary,
Prohibition and Excise Department,
Fort St.George,
Chennai-9.

2.The District Collector and
District Magistrate, Salem

... Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of habeas corpus calling for the records relating to the detention order passed by the 2nd respondent in detention order C.M.P.No.6/GOONDA/C2/2016, dated 24.02.2016 and quash the same and consequently to produce the detenue namely Manigandan, s/o.Arthanari, aged 27 years, before this Court, now he is detained at the Central Prison, Salem, and to release and set him liberty forthwith.

For Petitioner : Mr.M.R.Senthilkumar

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 24.2.2016, passed in C.M.P.No.6/GOONDA/C2/2016, by the detaining authority, who has been arrayed as the second respondent herein, against the detenu, by name Manikandan, Son of Arthanari and quash the same.

2. The Sub-Inspector of Police, Mettur 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 case:

Karumalaikoodal Police Station Crime No.88 of 2014, registered under Sections 294(b), 323, 324, 384 and 506(i) of the Indian Penal Code, altered into one under Sections 294(b), 323, 324 and 384 of the Indian Penal Code.

3. Further it is averred in the affidavit that on 01.12.2015, one Gowrilatha, as defacto complainant, has given a complaint against the detenu and others in Mettur Police Station and the same has been

registered in Crime No.768 of 2014, under Sections 147, 148, 302 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 fact that the detenu is a professional offender, has derived subjective satisfaction and ultimately branded him as a 'Goonda', by way of passing the impugned detention order and in order to quash the impugned detention order, 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.

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 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, twenty one clear working days are available and in between Column Nos.12 and 13, nine clear working days are available and no proper explanation has been given on the side of the respondents with regard to such huge delay in disposing of the representation 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 24.02.2016, passed in C.M.P.No.6/GOONDA/C2/2016, by the detaining authority against the detenu, by name Manikandan, son of Arthanari, 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.

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

msk

To
 1.The Secretary to Government,
 Home, Prohibition and Excise Department,
 Fort St.George, Chennai-9.

- 2.The District Collector and
District Magistrate, Salem
Chennai-600 007
- 3.The Superintendent of Police
Central Prison, Salem
- 4.The Public Prosecutor,
High Court, Madras

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

msk

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