

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.642 of 2016

Divanayagi

.. Petitioner

Vs.

1. The Secretary to Government
Home, Prohibition and Excise Department
Secretariat, Chennai - 600 009

2. The District Collector & District Magistrate,
Tiruvannamalai District,
Tiruvannamalai.

.. Respondents

Habeas Corpus Petition filed under Article 226 of the Constitution of India, praying to issue writ of habeas corpus to call for the records in connection with the order of Detention passed by the second respondent dated 20.03.2016 in D.O.No.09/2016-C2 against the petitioner son Anbu, Male aged 33 years S/o.Kasi, who is confined at Central Prison, Vellore and set aside the same and direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner : Mr. S.Senthil Vel

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 20.03.2016 in D.O.No.09/2016-C2 passed by the detaining authority, who has been arrayed as the second respondent herein against the detenu by name Anbu, S/o Kasi and quash the same.

2. The Inspector of Police, Cheyyar 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 cases :

(i) Cheyyar Police Station Crime No.504 of 2015 under Sections 394, 397, 302 IPC altered into 392, 397 read with 397, 302 IPC.

(ii) Cheyyar Police Station Crime No.131 of 2016 under Sections 436, 506 (i) IPC.

3. Further, it is averred in the affidavit that on 09-02-2016 one Purushothaman as defacto complainant has given a complaint against the detenu in Cheyyar Police Station and the same has been registered in Crime No.135 of 2016 under Sections 341, 294(b), 506 (i), 392, 397 IPC 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 mother 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 a representation has been submitted 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 has represented 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 the remarks Column between Nos.7 and 9, 8 clear working days are available and in between Column Nos.12 and 13, 20 clear working days are available and no satisfactory explanation has been given on the side of the respondents with regard to delay in disposing of the

representation 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 20.03.2016 in D.O.No.09/2016-C2 passed by the second respondent is quashed. The respondents are directed to set the detenu by name Anbu S/o. Kasi, at liberty forthwith, unless he is required to be incarcerated in any other case.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

To

1. The Secretary to Government of Tamil Nadu
Home, Prohibition and Excise Department
Fort St. George, Chennai - 600 009
2. The District Collector & District Magistrate,
Tiruvannamalai District, Tiruvannamalai.
3. The Superintendent,
Central Prison,
Puzhal, Chennai.
4. The Joint Secretary to Government,
Public(Law & Order),
Fort Saint George, Chennai - 9.
5. The Public Prosecutor,
High Court, Madras.

HCP No.642 of 2016

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