

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16-09-2016

CORAM:

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

HCP No.684 of 2016

Tmt. A. Amala ... Petitioner/Sister of detenue

Vs.

1. The Secretary to Government
Home, Prohibition and Excise Department
Secretariat
Chennai - 600 009
2. The Commissioner of Police
Chennai Police, Office of the Commissioner of
Police (Goondas Section)
Vepery, Chennai 600 007 ... Respondents

Habeas Corpus Petition filed under Article 226 of the Constitution of India, praying to issue writ of habeas corpus calling for the records in connection with the detention order dated 19-09-2015 in Memo No.990//BCDFGISSSV/2015 against the petitioner's brother Amulraj @ Nagaraj, S/o. Thulukanam, aged about 30 years, who is confined at Central Prison, Puzhal, Chennai and set aside the same and direct the respondents to produce the detenu before this Court and set him at liberty and pass orders.

For Petitioner: Mr. V. Paarthiban

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

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 19-09-2015 passed in Memo No.990/BCDFGISSSV/2015 against the detenu by name Amulraj @ Nagaraj by the detaining authority who has been arrayed as second respondent herein and quash the same.

2. The Inspector of Police, M6 Mannady Police Station as sponsoring authority, has submitted an affidavit to the detaining authority, wherein it is stated that the detenu has involved in the following adverse cases:

i. E4 Kattur Police Station Crime No.37 of 2015 under Sections 341, 147, 148 and 302 IPC

ii. E4 Kattur Police Station Crime No.71 of 2015 under Sections 384 read with 511, 323 and 506 (i) IPC

3. Further, it is averred in the affidavit that one Gnanadas on 29-08-2015 as a defacto complainant has given a complaint in M6 Manali Police Station and the same has been registered under Crime No.1069 of 2015 under Sections 341, 294 (b), 336, 427, 397, 307 and 506(ii)IPC and ultimately prayed 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 habitual 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 sister of the detenu, as petitioner.

5. On the side of the respondents a detailed counter has been filed wherein it has been contended inter alia to the effect that the detaining authority after considering the averments placed before him and also after considering the fact that the detenu is a habitual offender as contemplated under Act 14 of 1982, the detention order does not call for any interference and altogether, the present petition is liable to be dismissed.

6. The learned counsel appearing for the petitioner has befittingly drawn the attention of this Court to English version of remand order as well as its Tamil Version. In English version it has been mentioned as "legal aid explained" "right to consent an Advocate also explained", whereas in Tamil version it has been simply mentioned that "proper legal action has been taken".

7. Therefore, it is quite clear that Tamil version of remand order is not in consonance with its English version and the same 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 19-09-2015 in Memo No.990//BCDFGISSSV/2015 is quashed. The respondents are directed to set the detenu, by name Amulraj @ Nagaraj, at liberty forthwith, unless he is required to be incarcerated in any other case.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

1. The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai - 600 009.
2. The Commissioner of Police,
Chennai Police, Office of the Commissioner of
Police (Goondas Section),
Vepery, Chennai 600 007.
3. The Public Prosecutor,
High Court, Madras.
4. The Joint Secretary to Government,
Public (Law & Order)
Fort St.George, Chennai-9.
5. The Superintendent, Central Prison,
Puzhal, Chennai.

rsk[col]
srg

WEB COPY

HCP No.684 of 2016