

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **27-09-2016**

CORAM:

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

H.C.P.No.700 of 2016

Jayakumari

.... Petitioner

VS.

1.The Secretary to Government,
Home, Prohibition and Excise Department,
Government of Tamil Nadu,
Fort St.George,
Chennai-600 009.

2.The Commissioner of Police,
Office of the Commissioner of Police,
Vepery,
Chennai-600 007

... 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 order of detention passed by the second respondent herein in his proceedings Memo No.321 BCDFGISSSV/2016, dated 19.03.2016, branding him as 'Goonda' under the Tamil Nadu Act 14 of 2082 and quash the same and direct the respondents too produce the body of the detenu namely, Sivasankaran, Male, aged 53 years, son of Devaraj, who is now detained in Central Prison, at Puzhal, Chennai, before this Court and set him at liberty.

For Petitioner : Mr.M.Babu Muthumeeran

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 19.03.2016, passed in No.321/BCDFGISSSV/2016, by the detaining authority, who has been arrayed as the second respondent herein, against the detenu, by name Sivashankaran, Son of Devaraj and quash the same.

2. The Inspector of Police, Central Crime Branch, Greater Chennai, 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:

Central Crime Branch Crime No.422 of 2015,
under Sections 406, 420 read with 34 of the Indian
Penal Code.

3. Further, it is averred in the affidavit that on 07.03.2016, one Tmt.Rekha, wife of Sasikumar, has given a complaint against the detenu and the same has been registered in Crime No.91 of 2016, under Sections 406, 420, 506(i) read with Section 34 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 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 mother of the detenu, as petitioner.

5. Even though this petition has been posted today finally, for filing counter, on the side of the respondents, counter has not been filed. Under such circumstances, the present 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 given and the same have 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 representations submitted by the detenu are 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, ten clear working days are available and in between Column Nos.12 and 13, eleven clear working days are available. Likewise, with regard to second representation, in between Column Nos.7 to 9, six clear working days are available and in between Column Nos.12 and 13, eleven clear working days are available and the said delay have not been explained on the side of the respondents. Since there is a huge delay in disposing of the representations given by the petitioner, the same would affect the rights of the petitioner/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 19.3.2016, passed in No.321/BCDFGISSSV/2016, by the detaining authority against the detenu, by name Sivashankaran, son of Devaraj, 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.)
27.09.2016

Index:Yes/no
msk

To

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Government of Tamil Nadu,
Fort St.George,
Chennai-600 009.
- 2.The Commissioner of Police,
Office of the Commissioner of Police,
Vepery,
Chennaik-600 007
- 3.The Superintendent of Police,
Central Prison, Puzhal, Chennai.
- 4.The Public Prosecutor,
High Court, Madras

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

msk

H.C.P.No.700 of 2016

22.09.2016