

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.09.2016

CORAM:

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

H.C.P.No.721 of 2016

Ramkumar ... Petitioner/detenu

vs.

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

2.The Commissioner of Police,
Chennai Police, Vepery,
Chennai

... Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of habeas directing the respondents to produce petitioner by name Ramkumar son of Marimuthu, aged about 24 years, before this Court, now confined in Central Prison, Puzhal, Chennai, set him at liberty and to call for the records pertaining to the order of detention passed in No.228/BCDFGISSSV/2016, dated 01.03.2016, passed by the 2nd respondent and set aside the same.

For Petitioner : Mr.K.Thenrajan

For Respondents : Mr.V.M.R.Rajentren, Addl.P.P.

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 01.03.2016, passed in No.228/BCDFGISSSV/2016, by the detaining authority, who has been arrayed as the second respondent herein, against the detenu, by name Ramkumar, Son of Marimuthu, and quash the same.

2. The Inspector of Police, Anna Nagar 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 cases:

(1) H-6, Dr.R.K.Nagar Police Station Crime No.705 of 2013, registered under Sections 147, 148, 302 read with Section 149 of the Indian Penal Code.

(2) K-4 Anna Nagar Police Station Crime No.117 of 2016, registered under Section 379 of the Indian Penal Code.

3. Further, it is averred in the affidavit that on 15.2.2016, one Arul, son of Joseph, as defacto complainant, has given a complaint against the detenu in K-4 Anna Nagar Police Station and the same has been registered in Crime No.121 of 2016, under Sections 341, 294(b), 323, 336, 397 and 506(ii) 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 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 detenu himself, as petitioner.

5. On the side of the respondents, a counter has been filed, wherein it has been specifically averred that the detaining authority, after considering the materials placed before him, has rightly invoked Act 14 of 1982 against the detenu and thereby, branded him as a 'Goonda' and therefore, the detention order in question need not be quashed.

6. The learned counsel appearing for the petitioner has contended that in paragraph No.4 of the detention order it has been specifically mentioned that in a case registered under Section 379 of the Indian Penal Code, in Crime No.1677 of 2012, in CrI.M.P.No.8172 of 2012, the Judicial Magistrate No.2, Poonamallee, has granted bail, but, the said bail order has not been furnished for the perusal of the detenu.

7. On the basis of the representation made on the side of the petitioner, this Court has scanned the entire booklet, wherein, the order alleged to have been passed in CrI.M.P.No.8172 of 2012, by the Judicial Magistrate No.2, Poonamallee, is not found place. Therefore, it is quite clear that the detaining authority, without applying his mind, has erroneously passed the impugned detention order and on that ground alone, the impugned detention order is liable to be quashed.

In fine this Habeas Corpus Petition is allowed. The detention order dated 01.03.2016, passed in No.228 of 2016, by the detaining authority against the detenu, by name Ramkumar, Son of Marimuthu, 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.

Sd/-
Assistant Registrar(V)

//True Copy//

Sub Assistant Registrar

msk

To

1. The Secretary to Government,
Home, Prohibition Excise Department,
Fort St.George,
Chennai-600 009
- 2.The Commissioner of Police,
Chennai Police, Vepery,
Chennai
- 3.The Superintendent, Central Prison,
Puzhal, Chennai.
4. The Joint Secretary Public (Law & order) Dept.
Fort St. George, Chennai.
- 5.The Public Prosecutor,
High Court, Madras.

+ 1 cc to Mr.K. Thangaraj, Advocate Sr.55526

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RSY(CO)
EU 28.09.16