

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **29.09.2016**

CORAM:

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

H.C.P.No.734 of 2016

Lakshmi

... Petitioner

VS.

1. State of Tamilnadu
rep.by its Secretary to Government
Home, Prohibition and Excise Department,
Secretariat, Chennai 9

2.The Commissioner of Police
Greater Chennai 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 entire records, relating to petitioner's husband detention under Tamil Nadu Act 14 of 1982 vide detention order dated 23.12.2015 on the file of the second in proceedings BCDFGISSV No.1273/2015 and quash the same as illegal and consequently direct the respondents herein to produce the said petitioner's husband, namely Mani @ Manikandan, son of Sampasivam, aged 25 years before this Hon'ble High Court and set the petitioner's husband at liberty from detention, now petitioner's husband detained at Central Prison-II, Puzhal, Chennai-66.

For Petitioner : Mr.C.C.Chellappan
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 23.12.2015, passed in BCDFGISSV

No.1273/2015, by the detaining authority, who has been arrayed as the second respondent herein, against the detenu, by name Mani @ Manikandan, son of Sampasivam and quash the same.

2. The Inspector of Police, Kannaki 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) J.11 Kannaki Nagar Police Station Crime No.1663 of 2015, registered under Sections 294(b), 341, 324, 387 and 506(ii) of the Indian Penal Code

(2) J.11 Kannaki Nagar Police Station Crime No.2506 of 2015, registered under Sections 341, 294(b), 392 and 506(ii) of the Indian Penal Code

(3) J.11 Kannaki Nagar Police Station Crime No.2510 of 2015 registered under sections 294(b), 341, 384 and 506(ii) of the Indian Penal Code

(4) J.11 Kannaki Nagar Police Station Crime No.2518 of 2015, registered under Sections 341, 294(b), 324, 394, 506(ii) of the Indian Penal Code.

3. Further, it is averred in the affidavit that on 25.9.2015, one Thirumariappan, son of Arunachalam, as defacto complainant, has lodged a complaint against the detenu in Kannaki Nagar Police Station and the same has been registered in Crime No.2520 of 2015 under sections 294(b), 341, 336, 427, 392, 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 wife of the detenu, as petitioner.

5. 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.

6. 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 does not call for any interference.

7. On the side of the respondents, a proforma has been submitted, wherein it is clearly stated that in between Column Nos.7 to 9, eight clear working days are available and in between Column

Nos.12 and 13, thirteen clear working days are available and no explanation has been given on the side of the respondents with regard to such delay and the same 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 23.12.2015, passed in BCDFGISSV No.1273/2015, by the detaining authority against the detenu, by name Mani @ Manikandan, son of Sampasivam, 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.)
29.09.2016

Index:Yes/no
ajr

To

1. State of Tamilnadu
rep.by its Secretary to Government
Home, Prohibition and Excise Department,
Secretariat, Chennai 9
- 2.The Commissioner of Police
Greater Chennai Police
Vepery, Chennai 600 007
3. The Superintendent
Central Prison-II
Puzhal, Chennai

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

ajr

H.C.P.No.734 of 2016

29.09.2016