

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.796 of 2016

Banu @ Faritha Banu

... Petitioner

VS.

1. The State of Tamilnadu
rep.by its Secretary to Government
Home, Prohibition and Excise Department,
Fort St.George, Chennai 9

2.The District Collector/
Detaining authority
O/o.District Collector and
District Magistrate
Coimbatore District

... Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of habeas corpus to produce the body of petitioner's husband who is the detenu by name Abdul Saleem, aged about 45 years, detained at Central Prison, Coimbatore before this Hon'ble Court and set him at liberty forthwith by calling for the records pertaining to the detention order dated 12.03.2016 made in Cr.M.P.No.05/G/2016/E1 on the file of the second respondent and quash the same.

For Petitioner : Mr.T.C.Sibin for Mr.S.Benazir
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 12.03.2016, passed in Cr.M.P.No.05/G/2016/E1, by the detaining authority, who has been arrayed as the second respondent herein, against the detenu, by name Abdul Saleem, son of Hakkim and quash the same.

2. The Inspector of Police, Karumathampatti 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) Coimbatore District Sulur Police Station Crime No.784 of 2015, registered under Sections 170, 379 of Indian Penal Code

(2) Coimbatore District Karumathampatti Police Station Crime No.503 of 2015, registered under Sections 170 and 379 of the Indian Penal Code

(3) Coimbatore District Kinathukadavu Police Station Crime No.324 of 2015 registered under sections 170 and 379 of the Indian Penal Code

(4) Coimbatore District Sulur Police Station Crime No.791 of 2015, registered under Sections 170 and 379 of the Indian Penal Code.

3. Further, it is averred in the affidavit that on

14.11.2015, one Selvaraj, son of Kuppusamy, as defacto complainant, has given a complaint against the detenu in Karumathampatti Police Station and the same has been registered in Crime No.507 of 2015 under sections 392 r/w 397 of the Indian Penal Code and ultimately prayed 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 wife of the detenu, as petitioner.

5. On the side of the respondents, a counter has been filed, wherein it is averred to the effect that the detaining authority after considering the averments made in the affidavit and other connected documents, has rightly passed the impugned detention order and the same does not call for any interference.

6. The learned counsel appearing for the petitioner has contended that on the side of the detenu, four representations have been submitted, but 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 all the representations submitted on the side of the detenu have been duly disposed of without delay and therefore, the detention order need not be quashed.

8. On the side of the respondents, a proforma has been submitted, wherein it has been clearly stated that in respect of the first representation, in between Column Nos.7 to 9, seven clear working days are available and in between Column Nos.12 and 13, twenty nine clear working days are available and further it is seen from the proforma that in respect of representation Nos.2 to 4, in between Column Nos.7 to 9, eleven clear working days are available and in between Column Nos.12 and 13, six clear working days are available and no explanation has been given on the side of the respondents for 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 12.03.2016, passed in

Cr.M.P.No.05/G/2016/E1, by the detaining authority against the detenu, by name Abdul Saleem, son of Hakkim, 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. The Secretary to Government
Home, Prohibition and Excise Department,
Fort St.George, Chennai 9
- 2.The District Collector/
Detaining authority
O/o.District Collector and
District Magistrate
Coimbatore District
3. The Superintendent
Central Prison
Coimbatore

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

ajr

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