

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30-09-2016

CORAM:

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

H.C.P.No.807 of 2016

Indira

.... Petitioner

vs.

1.The Commissioner of Police,
Commissiioner Office-Greater Chennai,
Vepery, Chennai-7

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

... Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of habeas corpus calling for the records of the first respondent in connection with the order of first respondent, dated 30.01.2016, in Memo No.36/BCDFGISSSV/2016, Ashok, Son of Raman, aged about 28 years as a Goonda under Tamil Nadu Act 14 of 1982 and set aside the same and direct the respondent to produce the body of the said detenu, the detenu now lodged in Central Prison, Puzhal, Chennai, before this Court and set him at liberty.

For Petitioner : Mr.P.Prince Premkumar

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 30.01.2016, passed in No.36/BCDFGISSSV/2016, by the detaining authority, who has been arrayed as the second respondent herein, against the detenu, by name Ashok, Son of Raman and quash the same.

2. The Inspector of Police, Avadi 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-8, Thiruvotriyur Police Station Crime No.1456 of 2014, registered under Section 379 of the Indian Penal Code.

(2) M-3, Puzhal Police Station Crime No.2507 of 2014, registered under Section 379 of the Indian Penal Code.

(3) S-10, Pallikaranai Police Station Crime No.131 of 2015, registered under Section 379 of the Indian Penal Code.

(4) T-6, Avadi Police Station Crime No.332 of

2015, registered under Section 379 of the Indian Penal Code.

(5) T-6, Avadi Police Station Crime No.355 of 2015, registered under Sections 341, 294(b), 336, 427, 392 read with 397 and 506(ii) of the Indian Penal Code.

3. Further it is averred in the affidavit that on 19.01.2016, one Sarathkumar, son of Dhandapani, as defacto complainant, has given a complaint against the detenu in T-6 Avadi Police Station and the same has been registered in Crime No.68 of 2016, under Sections 341, 294(b), 323, 336, 392, 397 read with Section 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 impugned detention order, the present petition has been filed by the mother of the detenu, as petitioner.

5. On the side of the respondents, a detailed counter has not been filed, wherein it is averred that the detaining authority, after considering the materials placed before him, has rightly branded the detenu as 'Goonda', by way of passing the impugned detention order and therefore, the impugned detention order need not be interfered with.

6. The learned counsel appearing for the petitioner has contended that on the side of the detenu, two representations are 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 on the side of the detenu have been duly disposed of without delay and therefore, the present petition deserves to be dismissed.

8. On the side of the respondents, a proforma has been submitted, wherein it has been clearly stated that in respect of first representation, in between Column Nos.7 to 9, six clear working days are available and in between Column Nos.12 and 13, five clear working days are available; likewise in respect of the second representation, in between Column Nos.7 to 9, five clear working days are available and

in between Column Nos.12 and 13, sixteen clear working days are available and no proper explanation has been given on the side of the respondents with regard to such huge delay in disposing of the representations and that itself 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 30.01.2016, passed in Memo No.36/BCDFGISSSV/2016, by the detaining authority against the detenu, by name Ashok, son of Raman, 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.)
30.09.2016

msk

To

- 1.The Commissioner of Police,
 Commission Office-Greater Chennai,
 Vepery, Chennai-7
- 2.The Secretary to Government of Tamil
 Nadu,
 Prohibition and Excise Department(Home),
 Secretariat, Fort St.George,
 Chennai-600 009

3.The Superintendent of Police
Central Prison, Puzhal, Chennai.

4.The Public Prosecutor,
High Court, Madras

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

msk

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