

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **19.09.2016**

CORAM:

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

H.C.P.No.810 of 2016

Banu

... Petitioner

VS.

1. State of Tamilnadu
rep.by the Secretary
Home, Prohibition and Excise Department,
Fort St.George, Chennai 9

2.The Commissioner of Police
The Commissioner Office
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 in relating to the detention order in Memo No.249/BCDFGISSV/2016 dated 5.3.2016 passed by the second respondent under Tamil Nadu Act 14 of 1982 and set aside the same and direct the respondents to produce the petitioner's son Syed Sirajudeen, S/o.Syed Jaffer, aged about 25 years the detenu, now confined in Central Prison, Puzhal, Chennai before this Hon'ble Court and set the petitioner's son Syed Sirajudeen, S/o.Syed Jaffer, aged about 25 years the detenu herein at liberty.

For Petitioner : Mr.D.Gopikrishnan
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 5.3.2016, passed in No.249/BCDFGISSV/2016, by the detaining authority, who has been arrayed as the second respondent herein, against the detenu, by name Syed Sirajudeen, S/o.Syed Jaffer and quash the same.

2. The Inspector of Police, Peravallore 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) K.5 Peravallore Police Station Crime No.705 of 2013, registered under Sections 341, 294(b), 307, 506(ii) of the Indian Penal Code altered into Sections 341, 294(b), 326, 307, 506(ii) of IPC r/w 34 of Indian Penal Code

(2) K.5 Peravallore Police Station Crime No.69 of 2016, registered under Sections 341, 294(b), 392 and 506(ii) of the Indian Penal Code

(3) K.9 Thiru Vi.Ka Nagar Police Station Crime No.122 of 2016 registered under sections 341, 294(b), 384 and 506(ii) of the Indian Penal Code

(4) K.5 Peravallore Police Station Crime No.78 of 2016, registered under Sections 341, 294(b), 384, 506(ii) of the Indian Penal Code.

3. Further, it is averred in the affidavit that on 24.2.2016, one Mannar, son of Kandan, as defacto complainant, has given a complaint against the detenu in Peravallore Police Station and the same has been registered in Crime No.121 of 2016 under sections 341, 294(b), 397, 336, 427 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 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. On the side of the respondents, a counter has been filed, wherein it has been contended to the effect that the averments made in the affidavit are false and ultimately prayed to dismiss the same.

6. 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.

7. The learned Additional Public Prosecutor appearing for the respondents has contended that the representation given on the side of the detenu has been duly disposed of without delay and therefore, the detention order in question does not call for interference.

8. On the side of the respondents, a proforma has been submitted, wherein it is clearly stated that the remarks have been called for on 22.4.2016 and the concerned authority has sent the remarks on 26.4.2016 and therefore in between Column Nos.7 to 9, two clear working days are available and further it is seen from the proforma that in Column Nos.12 and 13, fourteen clear working days are available and the same have not been explained on the side of the respondents. Under the said circumstances, the delay in disposing of the representation 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 5.3.2016, passed in No.249/BCDFGISSV/2016, by the detaining authority against the detenu, by name Syed Sirajudeen, S/o.Syed Jaffer, 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.)
19.09.2016

Index:Yes/no
ajr

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P.KALAIYARASAN,J**

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