

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.815 of 2016

Thanga Pandi

.... Petitioner

vs.

1.The State of Tamil Nadu,
rep.by its Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George, 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 brother detention under Tamil Nadu Act 14 of 1982 vide detention order, dated 01.04.2016, on the file of the second respondent herein made in proceedings No.386/BCDFGISSSV/2016 and quash the same as illegal and consequently direct the respondents herein to produce the said petitioner's brother namely Kannadasan, son of Karmegam, aged 29 years before this Court and set the petitioner's brother at liberty from detention, now petitioner's brother detained at Central Prison-II, Puzhal, Chennai.

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 01.04.2016, passed in No.386/BCDFGISSSV/2016, by the detaining authority, who has been arrayed as the second respondent herein, against the detenu, by name Kannadasan, Son of Karmegam and quash the same.

2. The Inspector of Police, Video Piracy Cell, Unit-I, CBCID, Chennai Unit, as sponsoring authority, has submitted an affidavit to the detaining authority, wherein it is averred that on 26.3.2016, the concerned Sub-Inspector of Police and other Police Constables have conducted vehicle check up and at that time, the detenu has been found in possession of DVDs, UP machines, Blank CDs, obscene CDs and other things and a case has been registered, in Crime No.90 of 2016, under Sections 51 read with Sections 63, 65 and 52A read with Section 68(A) of Copyrights Act, 1957 and Section 292(2)(a) of the Indian Penal Code and ultimately requested the detaining authority to invoke Act 14 of 1982 against the detenu.

3. 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 has been found in possession of all material objects mentioned in the complaint, and ultimately branded him as Video Pirator, by way of passing the impugned detention order and in order to quash the same, the present petition has been filed by the brother of the detenu, as petitioner.

4. On the side of the respondents, counter has not been filed. Under such circumstances, the present habeas corpus petition is disposed of on merits on the basis of the available materials on record.

5. The learned counsel appearing for the petitioner has contended that on the side of the detenu, a representation has been submitted 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 has represented that the representation submitted on the side of the detenu, has already been disposed of without delay and therefore, the detention order does not call for any interference.

7. On the side of the respondents, a pro-forma has been submitted, wherein it has been clearly stated that in between Column Nos.7 to 9, fifteen clear working days are available and in between Column Nos.12 and 13, eight clear working days are available and no explanation has been given on the side of the respondents with regard to such huge delay in disposing of the representation and that itself would affect of 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 04.01.2016, passed in No.286/BCDFGISSSV/2016, by the detaining authority against the detenu, by name Kannadasan, son of Karmegam, 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 Secretary to Government,
 Home, Prohibition and Excise Department,
 Fort St.George, Chennai-9.

- 2.The Commissioner of Police,
Greater Chennai Police,
Vepery, Chennai-600 007
- 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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