

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.10.2016

CORAM:

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

H.C.P.No.984 of 2016

R.Subramani ... Petitioner  
vs.

- 1.The Secretary to Government,  
Home Prohibition and Excise Department,  
Secretariat, Fort St.George,  
Chennai-600 009
- 2.The Commissioner of Police/Detaining Authority,  
City Police Officer,  
Tiruppur,  
Tiruppur District ... 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 the petitioner's son detention under the Tamil Nadu Act 14 of 1982 as a 'Immoral Traffic Offender' vide detention order, dated 17.03.2016, on the file of the second respondent herein made in proceedings vide in C.No.07/G/ISTPR(C)/2016, quash the same as illegal and consequently direct the respondents herein to produce the petitioner's daughter namely A.Selvi @ Rajeshwari, W/o.Anandaraj, aged 45 years, before this Court and set the petitioner's daughter at liberty from detention, now the petitioner's daughter detained at Special Prison for Women, Vellore.

For Petitioner : Mr.W.Camyles Gandhi

For Respondents :Mr.V.M.R.Rajentren,Addl.P.P.

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 17.3.2016, passed

in C.No.07/G/IS TPR (C)/2016, by the detaining authority, who has been arrayed as the second respondent herein, against the detenu, by name A.Selvi @ Rajeshwari, wife of Anandaraj, and quash the same.

2. The Inspector of Police, All Women Police Station (South), Tiruppur, as sponsoring authority, has submitted an affidavit to the detaining authority, wherein it is averred that one R.Backialakshmi has given a complaint against the detenu and others in All Women Police Station (South), Tiruppur and the same has been registered in Crime No.02 of 2016, under Sections 4(2)(c), 5(1)(d) of Immoral Traffic Prevention Act 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 committed the offences mentioned in the complaint and ultimately branded her as a 'Immoral Traffic Offender' by way of passing the impugned detention order and in order to quash the same, the present petition has been filed by the father of the detenu.

4. The learned counsel appearing for the petitioner has contended that on the side of the detenu, a representation has been submitted on 28.4.2016 and the same has not been disposed of and therefore, the detention order in question is liable to be quashed.

5. The learned Additional Public Prosecutor has contended that even though the detention order has been passed on 17.3.2016, no representation has been received by the concerned authority and therefore, the present petition deserves to be dismissed.

6. It is seen from the records that on 28.4.2016, a representation has been given to the concerned authority, but the same has not been disposed of.

7. Considering the fact that the representation given by the detenu has not been duly disposed of 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 17.3.2016, passed in C.No.07/G/IS TPR (C)/2016, by the detaining authority against the detenu, by name A.Selvi @ Rajeshwari, wife of Anandaraj, is quashed and the

respondents are directed to set her at liberty forthwith, unless she is required to be incarcerated in connection with some other case.

Sd/-  
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

- 1.The Secretary to Government,  
Home Prohibition and Excise Department,  
Secretariat, Fort St.George,  
Chennai-600 009
- 2.The Commissioner of Police/Detaining Authority,  
City Police Officer,  
Tiruppur,  
Tiruppur District
- 3.The Superintendent of Prison,  
Special Prison for Women, Vellore.
- 4.The Public Prosecutor,  
High Court, Madras.
- 5.The Joint Secretary to Government,  
Public(Law & Order),  
Fort Saint George, Chennai - 9.

+1cc to Mr.W.Camyles Gandhi, Advocate Sr.57026

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