



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.12.2016

CORAM:

THE HON'BLE MR.JUSTICE M.SATHYANARAYANAN  
AND  
THE HONOURABLE MRS.JUSTICE J.NISHA BANU

H.C.P.(MD)No.1240 of 2016

S.Chellammal

: Petitioner

Vs.

1.The State of Tamil Nadu,  
rep. by its Secretary to Government,  
Home, Prohibition and Excise Department,  
Fort St. George,  
Chennai-600 009.

2.The Commissioner of Police,  
Office of the Commissioner of Police,  
Tirunelveli City.

: Respondents

Prayer: Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Habeas Corpus, calling for the records relating to the detention order passed by the second respondent in No.24/BCDFGISSSV/2016, dated 12.08.2016, and quash the same and direct the respondents to produce the detenu Thiru.Sankaranarayanan, son of Paramathevar, Male, aged 48, who is detained at Central Prison, Palayamkottai before this Court and set him at liberty.

For Petitioner

: Mr.R.Pon Karthikeyan

For Respondents

: Mr.C.Mayilvahana Rajendran,  
Additional Public Prosecutor

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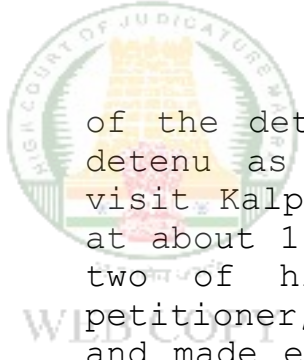
ORDER

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(Order of the Court was made by M.SATHYANARAYANAN, J.)

The petitioner is the wife of the detenu. Challenging the legality of the impugned Order of Detention dated 12.08.2016 passed by the second respondent, in his proceedings in No.24/BCDFGISSSV/2016, branding the detenu as 'Goonda', the petitioner has filed this Habeas Corpus Petition.

<https://hcservices.courts.gov.in/hcservices/> of the grounds of detention would disclose, among other things, that one Viswanathan, younger brother of Kalpana, belonging to Adi-Dravidar Community, eloped with Cauveri, daughter



of the detenu and the petitioner herein and in this regard, the detenu as well as the petitioner have been used to frequently visit Kalpana's house and had a wordy altercation. On 13.05.2016 at about 11 hours, Sargunam, husband of Kalpana, was chatting with two of his friends and at that time, the detenu and the petitioner, who came in a Motorcycle, went inside Kalpana's house and made enquiries as to the whereabouts of her daughter Cauveri and there was a wordy altercation and at about 11.30 hours, the detenu took the aruval kept hidden inside his shirt and inflicted cut injury on the head of Kalpana and she raised an alarm and Sargunam and his friends rushed to the place of occurrence and they were also threatened with dire consequences. Later on, the detenu along with his wife went away and the injured was taken to Tirunelveli Medical College Hospital and the Casualty Medical Officer has declared that Kalpana was brought dead. Palayamkottai Police Station has also registered a case in Crime No.581 of 2016 for offences under Sections 294(b), 302, 506(ii) of the Indian Penal Code read with Section 3(i)(r)(s) and 3(ii)(va) of SC/ST (Prevention of Atrocities) Amendment Act, 2015 (ground case). The detenu was arrested on 14.05.2016 and produced before the Court of Judicial Magistrate No.I, Tirunelveli and he was remanded to judicial custody. Subsequently, his remand has been extended upto 17.08.2016. The detenu also filed an application for bail before this Court in Crl.O.P.(MD)No.13159 of 2016 and it was dismissed on 28.07.2016. The Detaining Authority-the second respondent herein, on being satisfied that in similar case registered by the Melapalayam Police Station in Crime No.180 of 2012 for the commission of the offences under Sections 294(b), 302, 506(ii) of the Indian Penal Code read with Section 3(2)(v) of SC/ST (Prevention of Atrocities) Act, 1989, the accused-Kannan was granted bail by the Court of Judicial Magistrate No.V, Tirunelveli, has arrived at a subjective satisfaction to clamp the order of detention and accordingly, passed the order.

3. The learned counsel appearing for the petitioner would submit that admittedly, the alleged occurrence took place inside the house of Kalpana and since there was no threat to public order, the impugned order of detention is liable to be quashed on the sole ground. He would further contend that the trial of the case has also commenced and some of the witnesses have already been examined.

4. Per contra, Mr.C.Mayilvahan Rajendran, learned Additional Public Prosecutor would submit that the Detaining Authority, on thorough consideration and due application of mind to the materials placed before it, has rightly clamped the order of detention and prays for dismissal of the Habeas Corpus Petition.

5. The Court considered the rival submissions and also perused the materials placed before it.



6. As rightly contended by the learned counsel appearing for the petitioner, admittedly, the alleged occurrence took place inside the house of Kalpana and a perusal of paragraph No.2(i) of the grounds of detention would disclose that the public tranquility or order has not been affected in any manner and there was no hindrance to public order also. Hence, on the sole ground, the impugned detention order warrants interference.

7. In the result, the Habeas Corpus Petition is allowed and the impugned Detention Order, passed by the second respondent, in his proceedings in No.24/BCDFGISSSV/2016, dated 12.08.2016, is quashed. The detenu, namely, Sankaranarayanan, S/o.Paramathevar, aged about 48 years, is ordered to be set at liberty forthwith, if his detention is not required in connection with any other case.

Sd/

Assistant Registrar(Crl.Side)

/True Copy/

Sub Assistant Registrar.

To

1.The Secretary to Government,  
The State of Tamil Nadu,  
Home, Prohibition and Excise Department,  
Fort St. George,  
Chennai-600 009.

2.The Commissioner of Police,  
Office of the Commissioner of Police,  
Tirunelveli City.

3.The Superintendent,  
Central Prison, Palayamkottai.

4 The Joint Secretary to Government,  
Public (Law and Order) Department,  
Fort St. George, Chennai-9

5.The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.

+1CC to M/S.R.Pon Karthikeyan, Advocate, SR.No. 74702.

Order made in  
H.C.P.(MD) No.1240 of 2016  
Dated: 01.12.2016