

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.10.2017

Coram

THE HON'BLE MR.JUSTICE RAJIV SHAKDER  
&  
THE HON'BLE MR.JUSTICE N.SATHISH KUMAR  
H.C.P.No.1021 of 2017

C.Rekha  
Daughter of Choodamani

... Petitioner

Vs.

1.The Principal Secretary to the Government,  
Home, Prohibition and Excise Department,  
Secretariat, Chennai - 600 009.

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

... Respondents

**PRAYER:** Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, to call for the records in connection with the order of detention passed by the 2<sup>nd</sup> respondent dated 24.05.2017 in memo No.295/BCDFGISSSV/2017, against the petitioner's brother Mahendrakumar son of Chudamani, aged about 41 years, who is confined at Central Prison, Puzhal, Chennai and set aside the same and direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner : Mr.V.Parthiban

For Respondents : Mr.V.M.R.Rajentran,

Addl. Public Prosecutor.

**ORDER**

(Order of the Court was made by **N.SATHISH KUMAR, J**)

The petitioner is the sister of the detenu, namely, Mahendrakumar, S/o.Chudamani, male, aged about 41 years. The detenu has been detained by the second respondent by his order in No.295/BCDFGISSSV/2017, dated 24.05.2017, holding him to be a "Goonda", as contemplated under 2(f) of Tamil Nadu Act 14 of 1982. The said order is under challenge in this Habeas Corpus Petition.

2. We have heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the respondents. We have also perused the records produced by the Detaining Authority.

3. The Inspector of Police, R1 Mambalam 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:

i) R1 Mambalam Police Station, Crime No.451 of 2017, registered under Sections 341, 294(b), 336, 427, 307 and 506(ii) of Indian Penal Code;

ii) R1 Mambalam Police Station, Crime No.934 of 2017, registered under Sections 341, 294(b), 384 and 506(ii) of Indian Penal Code; and

iii) R2 Kodambakkam Police Station, Crime No.825 of 2017, registered under Sections 341, 294(b), 427, 392 and 506(ii) of Indian Penal Code.

4. Further it is averred in the affidavit that on 04.05.2017, one Seenivasan, aged 51 years, S/o.Venkatasamy, residing at No.218, Jothiyammal Nagar, Saidapet, Chennai-15, as defacto complainant, has given a complaint in R1 Mambalam Police Station, wherein it is alleged to the effect that in the place of occurrence, the detenu has deterred him by using filthy words and also attacked him by using a knife. Under the said circumstances, a case has been registered in Crime No.942 of 2017 under Sections 341, 294(b), 336, 427, 307 and 506(ii) of Indian Penal Code and ultimately, requested the Detaining Authority to invoke Act 14 of 1982 against the detenu.

5. The Detaining Authority, after considering the averments made in the affidavit and other connected materials, has derived a subjective satisfaction to the effect that the detenu is a habitual offender and ultimately, branded him as goonda by way of passing the impugned

Detention Order and in order to quash the same, the present petition has been filed by the uncle of the detenu, as petitioner.

6. Despite repeated adjournments, on the side of the respondents, counter has not been filed. Under such circumstance, the present Habeas Corpus Petition is disposed of on the basis of available materials on record.

7. The learned counsel appearing for the petitioner has contended to the effect that on the side of the detenu, a representation has been given, but the same has not been disposed of without delay and therefore, the Detention Order in question is liable to be quashed.

8. Per contra, the learned Additional Public Prosecutor has contended that the representation submitted on the side of the detenu has been duly disposed of without delay and therefore, the Detention Order need not be quashed.

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9. On the side of the respondents, a proforma has been submitted, wherein, it has been clearly stated that in between column Nos.7 and 9, four clear working days are available and in between column Nos.12 and 13,

three clear working days are available and no explanation has been given on the side of the respondents with regard to such delay and that the same would affect the rights of the detenu guaranteed under Article 22(5) of the Constitution of India.

10. In the result, the Habeas Corpus Petition is allowed and the order of detention in No.295/BCDFGISSSV/2017, dated 24.05.2017, passed by the second respondent is set aside. The detenu, namely, Mahendrakumar, S/o.Chudamani, male, aged about 41 years, is directed to be released forthwith unless his detention is required in connection with any other case. Given the nature of the case, this order will be communicated to the concerned Jail Superintendent by the Registrar General of this Court via Fax.

(R.S.A., J.)

(N.S.K., J.)

04.10.2017

Index : yes/no

vsm

**Note: Issue order copy today**

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RAJIV SHAKDER, J.

and

N.SATHISH KUMAR, J.

vsm

To

- 1.The Principal Secretary to the Government,  
Home, Prohibition and Excise Department,  
Secretariat, Chennai - 600 009.
- 2.The Commissioner of Police,  
Greater Chennai,  
Vepery, Chennai - 600 007
- 3.The Superintendent,  
Central Prison,  
Salem.
- 4.The Public Prosecutor,  
Madras High Court,  
Chennai.



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