

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 20.09.2017

CORAM

THE HON'BLE Mr.JUSTICE A.SELVAM
and
THE HON'BLE Mr.JUSTICE P.KALAIYARASAN

H.C.P.No.1081 of 2017

Maruthammal

.. Petitioner

Vs

1.The State of Tamil Nadu,
Rep. by its Secretary to Government,
Department of Prohibition and Excise [Home],
Fort St. George,
Chennai-9.

2.The Commissioner of Police,
Chennai City Police, Greater Chennai,
Commissioner Office,
Vepery, Chennai-7.

Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS, to call for the records in Memo No.183/BCDFGISSSV/2017 dated 15.04.2017 on the file of the 2nd respondent herein and set aside the same as illegal and produce the detenu Kalaiselvan, aged 22 years, S/o.Ramar, now confined at Central Prison, Puzhal, Chennai before this Hon'ble Court and set him at liberty.

For Petitioner : Mr.Ilayaraja Kandasamy

For Respondents : Mr.V.M.R.Rajentren,
Additional Public Prosecutor

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O R D E R

[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 records relating to the detention order passed in No.183/BCDFGISSSV/2017 dated 15.04.2017 by the Detaining Authority against the detenu by name, Kalaiselvan, aged 22 years, S/o.Ramar, residing at No.46, North Mada Veethi, Lakebund, Maduravoyal, Chennai-95 and quash the same.

2. The Inspector of Police, T-4 Maduravoyal Police Station as Sponsoring Authority has submitted an affidavit to the Detaining Authority, wherein, it is averred to the effect that the detenu has involved in the following adverse case :

i. T-4 Maduravoyal Police Station Crime No.551/2016 registered under Section 379 of the Indian Penal Code.

3. Further, it is averred in the affidavit that one Abiba, aged 65 years, W/o.Abdul Raheem, residing at No.27, Ambedkar Nagar 5th Street, Lakebund, Maduravoyal, Chennai-95, as de facto complainant has given a complaint in T-4 Maduravoyal Police Station, wherein, it is alleged to the effect that in the place of occurrence, the detenu has attacked one Abubakkar and thereby caused fatal injuries and despite of best efforts taken, he passed away. Under the said circumstances, a case has been registered in Crime No.898/2016 under Section 302 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 perusing the averments made in the affidavit and other connected documents, has arrived at 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 mother of the detenu as petitioner.

5. In the counter filed on the side of the respondents, it is averred to the effect that most of the averments made in the petition are false. The Sponsoring Authority has submitted all the relevant materials to the Detaining Authority. The Detaining Authority after perusing all the material records, has arrived at a subjective satisfaction to the effect that the detenu is a habitual offender and ultimately, passed the impugned Detention Order and the same need not be interfered with and therefore, the present petition deserves to be dismissed.

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

7. Per contra, learned Additional Public Prosecutor has submitted that the representation submitted on the side of the detenu has been duly disposed of without delay and therefore, the contention put forth on the side of the petitioner is liable to be rejected.

8. On the side of the respondents, a proforma has been submitted, wherein, it is clearly stated that in between column Nos.7 to 9, 8 clear working days are available and in between column Nos.12 and 13, 2 clear working days are available and no explanation has been given on the side of the respondents with regard to such delay 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.

9. In fine, this petition is allowed. The Detention Order dated 15.04.2017 passed in No.183/BCDFGISSSV/2017 by the Detaining Authority against the detenu by name, Kalaiselvan, aged 22 years, S/o.Ramar, is quashed and directed to set him at liberty forthwith, unless he is required to be incarcerated in any other case.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1.The Joint Secretary to Government of Tamil Nadu,
Public [Law and Order] Department,
Secretariat, Chennai-9.

2.The Secretary to Government,
Department of Prohibition and Excise [Home],
Fort St. George, Chennai-9.

3.The Commissioner of Police,
Chennai City Police, Greater Chennai,
Commissioner Office, Vepery,
Chennai-7.

4.The Superintendent,
Central Prison, Puzhal, Chennai.
[in duplicate for communication to the detenu]

5.The Public Prosecutor,
High Court, Madras.

H.C.P.No.1081 of 2017

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