

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:07.09.2017

CORAM:

THE HON'BLE MR.JUSTICE A.SELVAM

AND

THE HON'BLE MR.JUSTICE P.KALAIYARASAN

H.C.P.No.1113 of 2017

S.Rani

.... Petitioner

vs.

1.The State of Tamil Nadu,
rep.by the Secretary to Government,
Home Prohibition and Excise Department,
Fort St.George,
Chennai-9.

2.The District Collector and District
Magistrate,
Kancheepuram District,
Kancheepuram

3.The State, rep.by its
Inspector of Police,
Otteri Police Station,
Kancheepuram 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 of the second respondent in B.C.D.F.G.I.S.S.S.V.No.12 of 2017, dated 09.02.2017 and quash the same and thereby direct the respondents to produce the son of the petitioner namely, Thiru Vinoth @ Chotta Vinoth, son of Subramani, aged about 26 years (Detenue) now detained at Central Prison, Puzhal, Chennai, before this Court and set him at liberty forthwith.

For Petitioner : Ms.A.Yamuna for
M/s.M.Ravikumar

For Respondents : Mr.V.M.R.Rajentran, 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 passed in B.C.D.F.G.I.S.S.S.V.No.12 of 2017, dated 09.02.2017, by the detaining authority against the detenu, by name Vinoth @ Chotta Vinoth, aged 26 years, S/o Subramani, residing at 3/694, Swamy Vivekananda Nagar, Mannivakkam, Chennai-600 048 and quash the same.

2. The Inspector of Police, Otteri 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. Otteri Police Station Cr.No.671 of 2016, registered under Sections 120-B, 147, 148, 302 IPC read with Sections 3 & 6 of Explosive Substances Act, 1908.

3. Further, it is averred in the affidavit that on 21.12.2016, at about 10.30 hours, one Murugesan, aged 32 years, son of Palaniyandi, residing at 11/5, Rajiv Gandhi Nagar, Ganesan Street, Nesapakkam, Chennai-78, as defacto complainant, has given a complaint in Otteri Police Station, wherein it is alleged to the effect that the defacto complainant has been serving as a driver in OLA Travels. The Registration Number of the car is TN-22-DB-9060. Further it is alleged in the complaint that on 19.12.2016, the present detenu and others have caused damage to the said car and also abused the defacto complainant by using filthy language. Under such circumstances, a case has been registered in Crime No.673 of 2016, under Sections 294(b), 506(ii) IPC read with Section 3(i) of the Tamil Nadu Property (Prevention of Damage & Loss) Act, 1992 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 derived subjective satisfaction to the effect that the detenu is a habitual offender and ultimately branded him as a '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. On the side of the respondents, counter has not been filed and therefore, the present petition is disposed of on merits, on the basis of available materials on record

6. The learned counsel appearing for the petitioner has contended to the effect that the detenu has been supplied with a booklet, wherein at page No.113, English version of remand extension order is available, wherein it is clearly stated that the detenu has been produced before the concerned Magistrate on 06.01.2017 and remand has been extended till 20.01.2017. At page No.115, Tamil version of remand extension order is available, wherein it has been erroneously mentioned that the remand of the detenu has been extended till 13.01.2017 and the same would affect the rights of the detenu and therefore, the impugned detention order is liable to be quashed.

7. The learned Additional Public Prosecutor has contended that actually the detenu has been produced before the concerned Magistrate, on 06.01.2017, for getting remand extension and the same has been extended till 20.01.2017. But in Tamil version, inadvertently it is stated as 13.01.2017 and the same would not cause prejudice to the detenu and therefore, the contention put forth on the side of the petitioner is liable to be rejected.

8. It is an admitted fact that the detenu has been produced before the concerned Magistrate on 06.01.2017 and his remand has been extended till 20.01.2017. But, as rightly pointed out on the side of the petitioner, in Tamil version, it has been mentioned that the remand of the detenu has been extended till 13.01.2017 and in fact, the same would affect the rights of the detenu. Since the same would affect the rights of the detenu, the detention order in question is liable to be quashed.

9. In fine, this Habeas Corpus Petition is allowed. The detention order dated 09.02.2017, passed in BCDFGISSSV No.12/2017, by the detaining authority against the detenu, by name Vinoth @ Chotta Vinoth, aged 26 years, S/o Subramani, residing at 3/694, Swamy Vivekananda Nagar, Mannivakkam, Chennai-600 048, 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.

10. As adverted to earlier, actually the remand of the detenu has been extended till 20.01.2017; whereas, in Tamil version, it has been mentioned that the remand of the detenu has been extended till 13.01.2017.

11.It is seen from the book-let that Tamil version has been preferred by a concerned Inspector of Police, Otteri Police Station. Under the said circumstances, the Superintendent of Police, Kancheepuram District, is strictly directed to conduct a full-fledged enquiry as to how the mistake pointed out supra has happened and also directed to take appropriate action against the concerned Inspector of Police.

12.Further it is directed that a copy of this order is ordered to be sent to the Superintendent of Police, Kancheepuram District, for taking necessary action against the concerned Inspector of Police in respect of the mistake pointed out earlier.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

msk

To

- 1.The Joint Secretary to Government of
Tamil Nadu, Public (Law and Order)
Department,
Secretariat, Chennai-9.
- 2.The Secretary to Government,
Home Prohibition and Excise Department,
Fort St.George,
Chennai-9.
- 3.The District Collector and District
Magistrate,
Kancheepuram District,
Kancheepuram
- 3.The Inspector of Police,
Otteri Police Station,
Kancheepuram District
- 4.The Superintendent,
Central Prison,
Puzhal, Chennai.

5.The Public Prosecutor,
High Court, Madras

6.The Superintendent of Police
Kancheepuram District

H.C.P.No.1113 of 2017

sv(co)
aa07/09/2017



WEB COPY