

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 28.08.2017

CORAM

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

H.C.P.No.1140 of 2017

Rajammal .. Petitioner /Mother of Detenue

Vs

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

2.The District Magistrate and District Collector,
Namakkal District of Police,
Namakkal.

3.The Superintendent,
Central Prison, Salem.

... Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS, to call for the entire records of the 2nd respondent, in his proceeding C.M.P.No.34/Goondas/2016/M1 dated 25.10.2016 to quash the same and consequently direct the respondents to produce the petitioner's son Vadivel, aged 39 years, S/o.Pulladan @ Perumal, now confined in Central Prison, Salem before this Hon'ble Court and set him at liberty.

For Petitioner : Mr.E.D.Sethupathi

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

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 C.M.P.No.34/Goondas/2016/M1 dated 25.10.2016 by the Detaining Authority against the detenu by name, Vadivel, aged 39 years,

S/o.Pulladan @ Perumal, residing at No.4/77, Alankattu Thoppu, Bharathi Nagar, Arunthathiyar Street, Attayampatti Privu Road, Athanur Post, Rasipuram Taluk, Namakkal District and quash the same.

2. The Inspector of Police, Vennandur Police Station as Sponsoring Authority has submitted an affidavit to the Detaining Authority, wherein, it is averred to the effect that on 21.09.2016, at about 11 a.m. that a Village Administrative Officer, Athanoor has given a complaint, wherein, it is stated that one Ramayee has died under mysterious circumstances and therefore, a case has been registered in Crime No.282/2016 under Section 174 of the Indian Penal Code. The Inspector of Police, Vennandur Police Station has taken up the investigation, after sometime, secured the real accused and subsequently, altered the Sections into Sections 376 and 302 of the Indian Penal Code and ultimately, requested the Detaining Authority to invoke Act 14 of 1982 against the detenu.

3. 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 has committed a grave offence 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.

4. On the side of the respondents, counter has not been filed and under such circumstances, the present Habeas Corpus petition has been disposed of on merits on the basis of available materials on record.

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

6. Learned Additional Public Prosecutor has contended to the effect that the representation submitted on the side of the detenu has been duly disposed of without delay and therefore, the contention urged on the side of the detenu is liable to be rejected.

7. On the side of the respondents, a proforma has been submitted, wherein, it is clearly stated that in between column Nos.7 to 9,16 clear working days are available and in between column Nos.12 and 13,8 clear working days are available and no explanation has been given on the side of the respondents with regard to such a huge 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.

8. In fine, this petition is allowed. The Detention Order dated 25.10.2016 passed in C.M.P.No.34/Goondas/2016/M1 by the Detaining Authority against the detenu by name, Vadivel, aged 39 years, S/o.Pulladan @ Perumal is quashed and directed to set him at liberty forthwith, unless he is required to be incarcerated in any other case.

Sd/-

Asst.Registrar (CCC)

/true copy/

Sub Asst. 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 [Home],
Prohibition and Excise Department,
Fort St. George, Chennai-9.

3.The District Magistrate and District Collector,
Namakkal District of Police,
Namakkal.

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

5.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.E.D.Sethupathi, Advocate in sr.no.61585

H.C.P.No.1140 of 2017

SR(CO)
NR 28/08/2017

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