

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 06.09.2017

CORAM

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

H.C.P.No.1146 of 2017

K.P.Selvaraj ... Petitioner/Friend of the
detenu

Vs

1.The State of Tamil Nadu
Rep. by its Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai-9.

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

... 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 relating to petitioner's friend detention under Tamil Nadu Act 14 of 1982 vide detention order dated 09.05.2017 on the file of the second respondent herein made in proceedings No.244/BCDFGISSSV/2017 and quash the same as illegal and consequently direct the respondents herein to produce the said petitioner's friend namely Srinivasan, Son of Arumugam, aged 29 years before this Court and set the petitioner son at liberty from detention, now petitioner's friend detained at Central Prison-II, Puzhal, Chennai - 600 066.

For Petitioner : Mr.C.C.Chellappan

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 Memo No.244/BCDFGISSSV/2017 dated 09.05.2017 by the Detaining

Authority against the detenu by name, Srinivasan, aged 29 years, S/o.Arumugam, residing at No.30, Kumaran Colony, 3rd Street, Vadapalani, Chennai and quash the same.

2. The Inspector of Police, Anti Vice Squad, 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) Anti Vice Squad, Crime No.14 of 2016, registered under Sections 3(2)a, 4(1) and 5(1)a of ITP Act.

3. Further it is averred in the affidavit that on 26.04.2017, one Kokarnam, Sub-Inspector of Police and other police officials in the place of occurrence, have watched a prostitution business. At that time, the detenu has approached him and also asked him as to whether he requires any lady for enjoyment and subsequently, the Sub-Inspector of Police has been taken to an isolated place and also shown a lady. The detenu and others have demanded a sum of Rs.3000/-. But the Sub-Inspector has told that he is not having sufficient money and for making out he wants to go out and consequently, a case has been registered in Crime No.29 of 2017 under Section 3(2)a, 4(1), 5(1)a, 6(1) and 7(1) of ITP Act 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 a subjective satisfaction to the effect that the detenu is a habitual offender and ultimately branded him as "Immoral Traffic Offender" by way of passing the impugned Detention Order and in order to quash the same, the present petition has been filed by the friend of the detenu as petitioner.

5. On the side of the respondents, counter has been filed, wherein, it is averred to the effect that most of the averments made in the petition are false. The Sponsoring Authority has supplied all the relevant materials to the Detaining Authority. The Detaining Authority after considering all the relevant materials and other connected papers, has arrived at a subjective satisfaction to the effect that the detenu is habitual offender and ultimately, branded him as "Immoral Traffic Offender" and the same does not call for any interference 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, two representations are submitted, but the same have not disposed of without delay and therefore, the Detention Order in question is liable to be quashed.

7. Learned Additional Public Prosecutor has contended that the representations submitted on the side of the detenu are duly disposed of without delay and therefore, the contention urged 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 respect of first representation, in between column Nos.7 to 9, 5 clear working days are available and in between column Nos.12 and 13, 4 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 09.05.2017 passed in Memo No.244/BCDFGISSSV/2017 by the Detaining Authority against the detenu by name, Srinivasan, aged 29 years, S/o.Arumugam is quashed and directed to set him at liberty forthwith, unless he is required to be incarcerated in any other case.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

gpa
To

- 1.The Joint Secretary to Government of Tamil Nadu,
Public [Law and Order] Department,
Secretariat, Chennai-9.
2. The Secretary to the Government
Home, Prohibition and Excise Department
Secretariat
Chennai- 600 009
- 3.The Commissioner of Police,
Greater Chennai Police
Vepery, Chennai - 600 007
- 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.1146 of 2017

gmI (co)
ss(6/9/2017)



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