

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 05.09.2017

CORAM

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

H.C.P.No.1150 of 2017

Kalaivani

.. Petitioner

Vs

1.State of Tamil Nadu
Represented by Secretary to Government
Home, Prohibition and Excise Department
Fort St. George
Chennai – 600 009

2. The Commissioner of Police
Greater Chennai

.. Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS, calling for the records relating to the detention order passed by the second respondent pertaining to the order made in Memo No.89/BCDFGISSSV/2017 dated 30.03.2017 in detaining the detenu under Section 2 (f) of Tamil Nadu Act 14 of 1982 as a Goonda and quash the same and direct the respondent to produce the detenu Parthiban, Son of Raja aged about 26 years, who is detained at Central Prison, Puzhal before this Court and set him at liberty.

For Petitioner : Mr.G.Nirmal Krishnan

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

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 the detention order passed in BCDFGISSSV No.89/2017 dated 30.03.2017, against the detenu by name, Parthiban, aged 26 years, S/o.Raja, No.30/44, Anna Nagar First Street, Pazhathottam, Thimmavaram Village, Chengalpattu Taluk, Kancheepuram District and quash the same.

2. The Inspector of Police, S-15 Selaiyur 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 cases:

i) Chengalpattu Taluk Police Station, Crime No.225 of 2015, registered under Sections 294(b), 324 and 506(ii) of Indian Penal Code;

ii) Salavakkam Police Station, Crime No.468 of 2015, registered under Sections 120(b), 341, 302, 342, 203 and 34 of Indian Penal Code;

iii) Chengalpattu Town Police Station, Crime No.107 of 2017, registered under Section 379 of Indian Penal Code; and

iv) S-15, Selaiyur Police Station, Crime No.280 of 2017, registered under Sections 341, 294(b) and 384 of Indian Penal Code.

3. Further it is averred in the affidavit that on 16.02.2017, one Dharmar, aged 24 years, S/o.Muniah, residing at No.12/6, Annai Indira Nagar, Thirunavukkarasar Street, Chennai – 64, as defacto complainant, has given a complaint in S-15 Selaiyur Police Station wherein it is alleged to the effect that in the place of occurrence, the detenu has deterred the defacto complainant and by showing a knife he has forcibly taken a sum of Rs.1900/- from the cash box of the defacto complainant and also threatened him. Under such circumstance, a case has been registered in Crime No. 284 of 2017 under Sections 341, 294(b), 392, 397, 336, 427 and 506(ii) of 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 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 wife of the detenu, as petitioner.

5. On the side of the respondents, counter has not been filed. Under such circumstance, this Habeas Corpus 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 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.

7. 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 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 has been clearly stated that in between column Nos.7 and 9, 3 clear working days are available and in between column Nos.12 and 13, 23 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.

9. In fine, this Habeas Corpus Petition is allowed and the Detention Order dated 30.03.2017 passed in BCDFGISSSV No.89/2017 by the second respondent against the detenu by name, Parthiban, aged 26 years, S/o.Raja, No.30/44, Anna Nagar First Street, Pazhathottam, Thimmavaram Village, Chengalpattu Taluk, Kancheepuram District is quashed and directed to set him at liberty forthwith unless he is required to be incarcerated in any other case.

[A.S., J.]

[P.K., J.]

05.09.2017

gpa

To

- 1.The Joint Secretary to Government of Tamil Nadu,
Public [Law and Order] Department,
Secretariat, Chennai-9.
- 2.The Secretary to Government
Government of Tamil Nadu
Home, Prohibition and Excise Department
Secretariat
Chennai - 600 009
3. The Commissioner of Police
Greater Chennai
- 4.The Superintendent
Central Prison
Puzhal, Chennai
[in duplicate for communication to the detenu]
- 5.The Public Prosecutor,
High Court, Madras.

A.SELVAM, J.
and
P.KALAIYARASAN, J.
gpa



H.C.P.No.1150 of 2017

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