

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.1164 of 2017

K.Dinesh Kumar

.. Petitioner

Vs

1.The District Collector,
Coimbatore District,
Coimbatore.

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

... 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 in respect of detention order passed by the 1st respondent in Cr.M.P.No.40/S.O./2016/E1 dated 09.12.2016 and quash the same, consequently direct the respondents to produce the body of the detenu K.Dinesh Kumar, aged 22 years, S/o.Kuppusamy, now lodged in Central Prison, Coimbatore before this Hon'ble Court and set him at liberty.

For Petitioner : Mr.J.Karthikeyan

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

O R D E R
सत्यमेव जयते

[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 Cr.M.P.No.40/S.O./2016/E1 dated 09.12.2016 by the Detaining Authority against the detenu by name, K.Dinesh Kumar, aged 22 years, S/o.Kuppusamy, residing at No.3/191, Adi Dravidar Colony, Mothepalayam, Sirumugai Road, Mettupalayam, Mettupalayam Taluk, Coimbatore District and quash the same.

2. The Inspector of Police, Mettupalayam 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. Mettupalayam Police Station Crime No.81/2015 registered under Sections 457 and 380 of the Indian Penal Code.

3. Further, it is averred in the affidavit that on 21.08.2016, one Mohankumar, a resident of Mothepalayam, has given a written complaint in Mettupalayam Police Station, wherein, it is stated that he found a dead body of a girl in a plantation grove and due to that, a case has been registered in Crime No.451/2016 under Section 174 of the Code of Criminal Procedure, 1973 and after making investigation, Section of law changed into Sections 3[a] r/w 4 of Protection of Children from Sexual Offences Act, 2012 and also into Sections 302 and 201 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 considering the averments made in the affidavit and other connected documents, has arrived at a subjective satisfaction that the detenu is a habitual offender and ultimately, branded him as sexual offender by way of passing the impugned Detention Order and in order to quash the same, the detenu himself has filed the present petition 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 materials to the Detaining Authority. The Detaining Authority after perusing all the relevant material records and other connected papers, has rightly branded him as sexual offender by way of passing the impugned Detention Order and the same does not require any interference and therefore, the present petition deserves to be dismissed.

6. Learned counsel appearing for the petitioner/detenu has contended to the effect that the detenu has been supplied a booklet and copies of most of the vital documents are not readable and the same would affect the rights of the detenu and therefore, the Detention Order in question is liable to be quashed.

7. Per contra, learned Additional Public Prosecutor has contended that the petitioner/detenu has been supplied with a booklet, wherein, all clear copies are available and therefore, the contention put forth on the side of the petitioner/detenu is liable to be rejected.

8. In fact, this Court has perused the entire booklet and ultimately, found that the copies of documents available at page

Nos.15 and 54 are not really readable and the same would cause prejudice to the detenu and therefore, the Detention Order in question is liable to be quashed.

9. In fine, this petition is allowed. The Detention Order dated 09.12.2016 passed in Cr.M.P.No.40/S.O./2016/E1 by the Detaining Authority against the detenu by name, K.Dinesh Kumar, aged 22 years, S/o.Kuppusamy 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

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To

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

2.The District Collector,
Coimbatore District,
Coimbatore.

3.The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George, Chennai-9.

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

5.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.J.Karthikeyan,Advocate sr.64381

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

H.C.P.No.1164 of 2017

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