

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 11.09.2017

CORAM

THE HON'BLE Mr.JUSTICE A.SELVAM
and
THE HON'BLE Mr.JUSTICE S.BASKARAN

H.C.P.No.1175 of 2017

Sebastin Raj .. Petitioner

Vs

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

2.The Commissioner of Police,
Greater Chennai Police,
Vepery, Chennai-7.

... 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 the petitioner father's detention under Tamil Nadu Act 14/1982 vide detention order dated 22.11.2016 on the file of the 2nd respondent herein made in proceedings in BCDFGISSSV No.1165/2016, quash the same as illegal and consequently direct the respondents herein to produce the detenu namely, Alphonse, aged 45 years, S/o.Jebastin, before this Hon'ble Court and set him at liberty from detention, now detained at Central Prison-II, Puzhal, Chennai-66.

For Petitioner : Mr.C.C.Chellappan

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

WEB COPY
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 BCDFGISSSV No.1165/2016 dated 22.11.2016 by the Detaining Authority against

the detenu by name, Alphonse, aged 45 years, S/o.Jebastin, residing at No.22, Kalaingar Street, Periyar Nagar, Avadi, Chennai-71 and quash the same.

2. The Inspector of Police, Pallikaranai 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. S-10 Pallikaranai Police Station Crime No.2068/2014 registered under Section 380 of the Indian Penal Code.
- ii. S-7 Madipakkam Police Station Crime No.1567/2016 registered under Sections 454 and 380 of the Indian Penal Code.
- iii. S-8 Adambakkam Police Station Crime No.1492/2016 registered under Section 511 of the Indian Penal Code.
- iv. S-8 Adambakkam Police Station Crime No.1525/2016 registered under Sections 454 and 380 of the Indian Penal Code.
- v. S-10 Pallikaranai Police Station Crime No.2952/2016 registered under Sections 457 and 380 of the Indian Penal Code.
- vi. S-10 Pallikaranai Police Station Crime No.2964/2016 registered under Sections 457 and 380 of the Indian Penal Code.
- vii. S-10 Pallikaranai Police Station Crime No.3080/2016 registered under Section 380 of the Indian Penal Code.
- viii. S-10 Pallikaranai Police Station Crime No.3081/2016 registered under Sections 457 and 511 of the Indian Penal Code.
- ix. S-10 Pallikaranai Police Station Crime No.3285/2016 registered under Section 380 of the Indian Penal Code.
- x. S-10 Pallikaranai Police Station Crime No.3398/2016 registered under Sections 454 and 411 of the Indian Penal Code.
- xi. S-10 Pallikaranai Police Station Crime No.3399/2016 registered under Sections 454 and 380 r/w 394 of the Indian Penal Code.

3. Further, it is averred in the affidavit that one Ramesh, S/o.Muniyan, as de facto complainant has given a complaint on 19.09.2016 against the detenu, wherein, it is alleged to the effect that in the place of occurrence, the detenu has unlawfully detained the de facto complainant and by way of showing a knife, he forcibly taken away a sum of Rs.1,200/- from the shirt pocket of the de facto complainant and also threatened him and at such circumstances, a case has been registered in Crime No.3424/2016 under Sections 341, 323, 392, 397, 427 and 506[iii] 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 perusing all the relevant records, has arrived at 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 son 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. Learned counsel appearing for the petitioner has contended to the effect that the detenu has been supplied with a booklet, wherein, at page Nos.13A, 240 and 241, copies of certain vital documents are available. But, the same are not readable and therefore, the Detention Order in question is liable to be quashed.

7. Learned Additional Public Prosecutor has contended to the effect that the detenu has been supplied with a booklet and all copies of vital documents are readable and no prejudice would cause to the detenu and therefore, the contention put forth on the side of the petitioner is liable to be rejected.

8. In fact, this Court has grouped the entire booklet, wherein, at page Nos.13A, 240 and 241, the documents available are not readable 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 22.11.2016 passed in BCDFGISSV No.1165/2016 by the Detaining Authority against the detenu by name, Alphonse, aged 45 years, S/o.Jebastin, is quashed and directed to set him at liberty forthwith, unless he is required to be incarcerated in any other case.

WEB COPY

Sd/-

Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

gya

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,
Secretariat, Chennai-9.
- 3.The Commissioner of Police,
Greater Chennai Police,
Vepery, Chennai-7.
- 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.1175 of 2017

SVI (CO)
VR(11/09/2017)



WEB COPY