

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 17.08.2017

CORAM

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

H.C.P.No.1177 of 2017

A.Krishnaveni .. Petitioner /Wife of the Detenue
Vs

- 1.The State of Tamil Nadu
Rep. by its Secretary to Government,
Prohibition and Excise Department,
Fort St. George, Chennai-9.
- 2.The Commissioner of Police,
Greater Chennai Police
Veppery, 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 records leading to the detention order in BCDFGISSSV No.270 of 2017 dated 18.05.2017 on the file of the second respondent and quash the same and directing the respondents to produce the detenu, namely Anbazhagan S/o.Virudhachalam, aged about 56 years residing at No.16/9, Malliyam Narasimhan Street, Poonamallee, Chennai - 600 056, now detained in Central Prison, Coimbatore, before this Court and set him at liberty.

For Petitioner : Mr.E.Omprakash
Senior Counsel
for Mr.S.Kumara Devan

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 BCDFGISSSV No.270 of 2017 dated 18.05.2017 by the Detaining Authority against the

detenu by name, Anbazhagan, aged 56 years, S/o.Virudhachalam, residing at No.16/9, Malliyam Narasimhan Street, Poonamallee, Chennai - 600 056 and quash the same.

2. The Inspector of Police, S11 Tambaram Police Station, as Sponsoring Authority, has submitted an affidavit to the Detaining Authority, wherein, it is averred that the detenu has involved in the following adverse cases:

i) S-11 Tambaram Police Station, Crime No.820 of 2017, registered under Sections 387 and 506(ii) of Indian Penal Code;

ii) Alandurai Police Station, Crime No.43 of 2017, registered under Sections 501, 502, 505(ii) and 506(ii) of Indian Penal Code, altered into Sectgions 501, 502, 505(ii) and 506(ii) of Indian Penal Code r/w. 3(1)(r)(s) and 3(2)(va) of SC/ST (P.A) Amendment Act, 2015.

iii) S-13 Chromepet Police Station, Crime No.602 of 2017, registered under Sections 384 and 506(i) of Indian Penal Code;

iv) S-11 Tambaram Police Station, Crime No.838 of 2017, registered under Sections 3(1)(m)(r)(s) of SC/ST Prevention of Attorcities Amendment Act, 2015; and

v) S-13 Chrompet Police Station, Crime No.603 of 2017, registered under Sections 384 and 506(i) of Indian Penal Code.

3. Further it is averred in the affidavit that on 05.04.2017, one Rajendran S/o.Chellaiah, as de facto complainant, has given a complaint in S11 Tambaram Police Station, against the detenu wherein it is alleged to the effect that in the place of occurrence, the detenu has threatened him by using filthy words. Under such circumstance, a case has been registered in Crime No.847 of 2017 under Sections 294(b), 384, 336 and 506(i) 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, 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. 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 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 a habitual offender and ultimately, branded him as goonda by way of passing the impugned Detention order and the same does not call for any interference and therefore, the Detention Order in

question is liable to be quashed and altogether 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 and the same have not been 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 second representation, in between column Nos.7 and 9, 8 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 18.05.2017 passed in BCDFGISSSV No.270 of 2017 by the Detaining Authority against the detenu by name, Anbazhagan, aged 56 years, S/o.Virudhachalam, residing at No.16/9, Malliyam Narasimhan Street, Poonamallee, Chennai - 600 056 is quashed and directed to set him at liberty forthwith, unless he is required to be incarcerated in any other case.

s/d-

Assistant Registrar(CS-V)

True Copy

Sub-Assistant Registrar

gpa

To

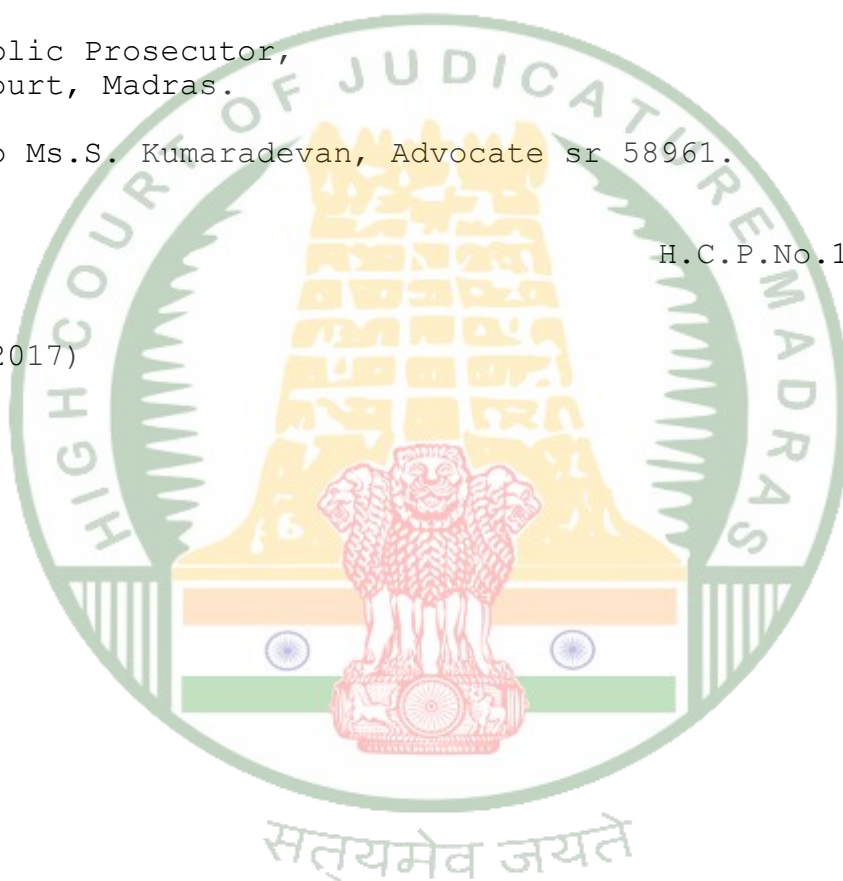
1. The Secretary to Government,
Government of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St. George, Chennai-9.

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2. The Joint Secretary to Government of Tamil Nadu,
Public [Law and Order] Department,
Secretariat, Chennai-9.
 3. The Commissioner of Police,
Greater Chennai Police
Veppery, Chennai - 600 007
 4. The Superintendent
Central Prison, Coimbatore
 5. The Public Prosecutor,
High Court, Madras.
- +2 CCs to Ms.S. Kumaradevan, Advocate sr 58961.

H.C.P.No.1177 of 2017

CA (CO)
sp (17/08/2017)



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