

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **04-09-2017**

CORAM:

THE HON'BLE MR.JUSTICE **A.SELVAM**
AND
THE HON'BLE MR.JUSTICE **P.KALAIYARASAN**

H.C.P.No.1181 of 2017

Divya Petitioner

vs.

1. The Secretary to the Government
Home, Prohibition and Excise Department
Secretariat, Chennai 600 009.
2. Commissioner of Police,
Salem City Police. 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 detainee's detention order passed by the second respondents in C.M.P.No.6/Goonda/Salem City/2017 dated 15.02.2017 and set aside the same and produce the detainee Arun, aged 26 years, S/o.Venkatachalam, now detained in Central Prison, Salem, before this Court and set him at liberty forthwith.

For Petitioner : Mr.S.Senthil Vel

For Respondents : Mr.V.M.R.Rajentren, APP

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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 detention order, dated 15.02.2017, passed in C.M.P.No.6/Goonda/Salem City/2017, by the detaining authority against the detenu, by name Arun, aged 26 years, S/o.Venkatachalam, residing at 667, Namamalai Nagar, Russia Colony, Ammapet, Salem and quash the same.

2.The Inspector of Police, Ammapet 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 case:

Ammapet Police Station, Cr.No.596 of 2016 registered under Section 302 of the Indian Penal Code altered into Sections 302, 201 and 109 of the Indian Penal Code.

3.Further, it is averred in the affidavit that on 05.12.2016 at about 10.00 hours, one Gopi, aged 35 years, S/o.Jayapal, residing at Ramasamy Street, Ponnammampet, Salem, as de facto complainant, has given a complaint wherein it is alleged that on 05.12.2016 at about 06.00 hours, the de facto complainant has gone out for doing his fruit business. At that time, the detenu has illegally deterred him and demanded a sum of Rs.2,000/-. The de facto complainant has refused to give the same. The detenu has tried to attack him and under the said circumstances, a case has been registered in Crime No.646 of 2016 under Sections 341, 387 and 506(ii) IPC in Ammapet Police

Station 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 subjective satisfaction to the effect that the detenu is a habitual offender and ultimately branded him as a '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 affidavit has not been filed. Under the said circumstances, this Habeas Corpus Petition is disposed of on merits based on the available materials on record.

6.The learned counsel appearing for the petitioner has contended that on the side of the detenu, a representation has been submitted, but the same has not been disposed of without delay and therefore, the detention order in question is liable to be quashed.

7.Per contra, the learned Additional Public Prosecutor appearing for the respondents has contended that the representation submitted by 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 to 9, 12 clear working days are available and in between Column Nos.12 and 13, 14 clear working days are available. No explanation has been given on the side of the respondents with regard to the huge delay in disposing of the representation submitted on the side of the detenu 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.

In fine, this Habeas Corpus Petition is allowed. The detention order dated 15.02.2017, passed in C.M.P.No.6/Goonda/Salem City/2017, by the detaining authority against the detenu, by name Arun, aged 26 years, S/o.Venkatachalam, residing at 667, Namamalai Nagar, Russia Colony, Ammapet, Salem, is quashed and the respondents are directed to set him at liberty forthwith, unless he is required to be incarcerated in connection with some other case.

(A.S.J.) (P.K.J.)
04.09.2017

Speaking/Non-speaking order

Index : Yes/No

Internet : Yes/No

To

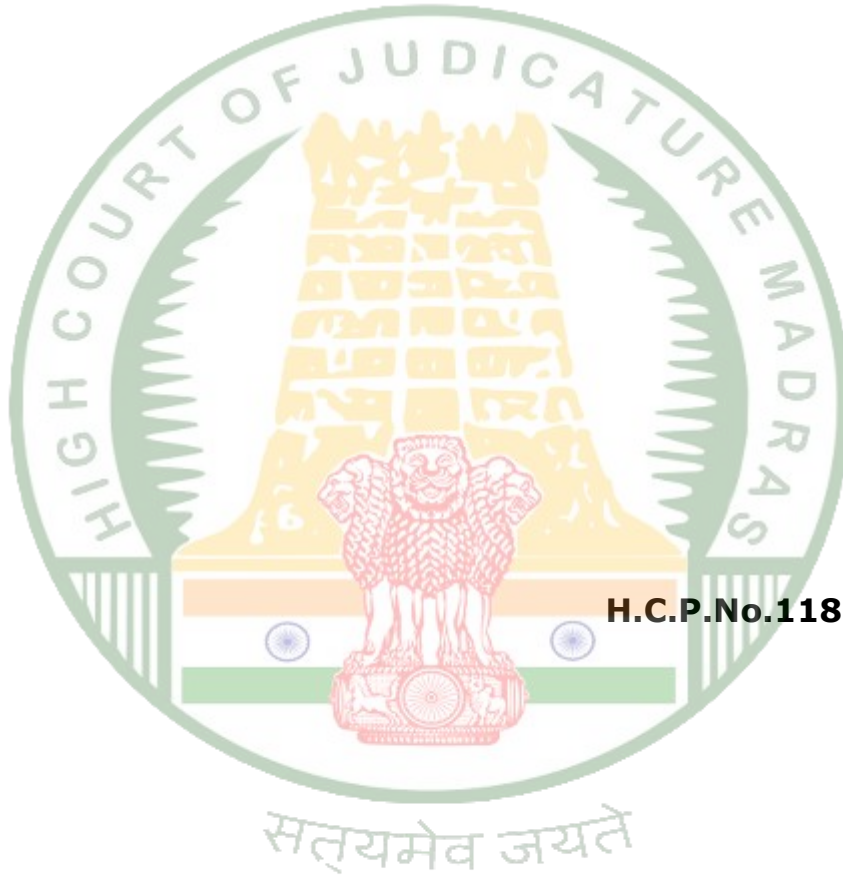
1. The Secretary
Home, Prohibition and Excise Department,
Secretariat, Chennai 9
2. The Commissioner of Police,
Salem City Police.
3. The Superintendent of Police,
Central Prison, Salem.
4. The Public Prosecutor,
High Court, Madras



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

(sra)



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