

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.1194 of 2017

M.Veerapandy ... Petitioner /father of
detenu

Vs

1.The Principal Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai-9.

2.The Commissioner of Police,
Greater Chennai,
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 records in connection with the order of detention passed by the 2nd respondent dated 12.04.2017 in No.168/BCDFGISSSV/2017 against the petitioner's son Surendhar, aged 24 years, S/o.Veerapandian, now confined at Central Prison, Puzhal, Chennai and set aside the same and direct the respondents to produce the detenu before this Hon'ble Court and set him at liberty.

For Petitioner : Mr.V.Paarthiban
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 No.168/BCDFGISSSV/2017 dated 12.04.2017 by the Detaining Authority against the detenu by name, Surendhar, aged 24 years, S/o.Veerapandian, residing at No.9, 36th Block, Tsunami Quarters, Ernavoor, Chennai-57 and quash the same.

2. The Inspector of Police, M-5 Ennore 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. M-5 Ennore Police Station Crime No.18/2017 registered under Sections 294[b] and 307 of the Indian Penal Code.

3. Further, it is averred in the affidavit that on 02.01.2017, one Mahendran, aged 23 years, S/o.Mahalingam, residing at No.6/7A, Mangalam Village, Dhiyathur Post, Avudaiyarkoil Taluk, Pudukottai District, as de facto complainant has given a complaint in M-5 Ennore Police Station, wherein, it is alleged to the effect that in the place of occurrence, the detenu, by showing a knife has demanded money from the de facto complainant. Since the de facto complainant has refused to part with the money, the detenu has forcibly taken a sum of Rs.1,300/- from the shirt pocket of the de facto complainant and also threatened him by using filthy words. Under such circumstances, a case has been registered in Crime No.23/2017 under Sections 341, 294[b], 336, 427, 323 r/w 397 and 506[ii] 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 the averments made in the affidavit and other connected documents, 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 father of the detenu as petitioner.

5. On the side of the respondents, counter has not been filed and therefore, the present Habeas Corpus Petition has been disposed of on merits the basis of available materials on record.

6. Learned counsel appearing for the petitioner has contended to the effect 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, learned Additional Public Prosecutor has contended to the effect that the representation submitted on the side of the detenu has been 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 between column Nos.7 to 9, 9 clear working days are available and in between column Nos.12 and 13, 16 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 12.04.2017 passed in No.168/BCDFGISSSV/2017 by the Detaining Authority against the detenu by name, Surendhar, aged 24 years, S/o.Veerapandian is quashed and directed to set him at liberty forthwith, unless he is required to be incarcerated in any other case.

Sd/-

Assistant Registrar(CO)

//True Copy//

सत्यमेव जयते

Sub Assistant 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 Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai-9.

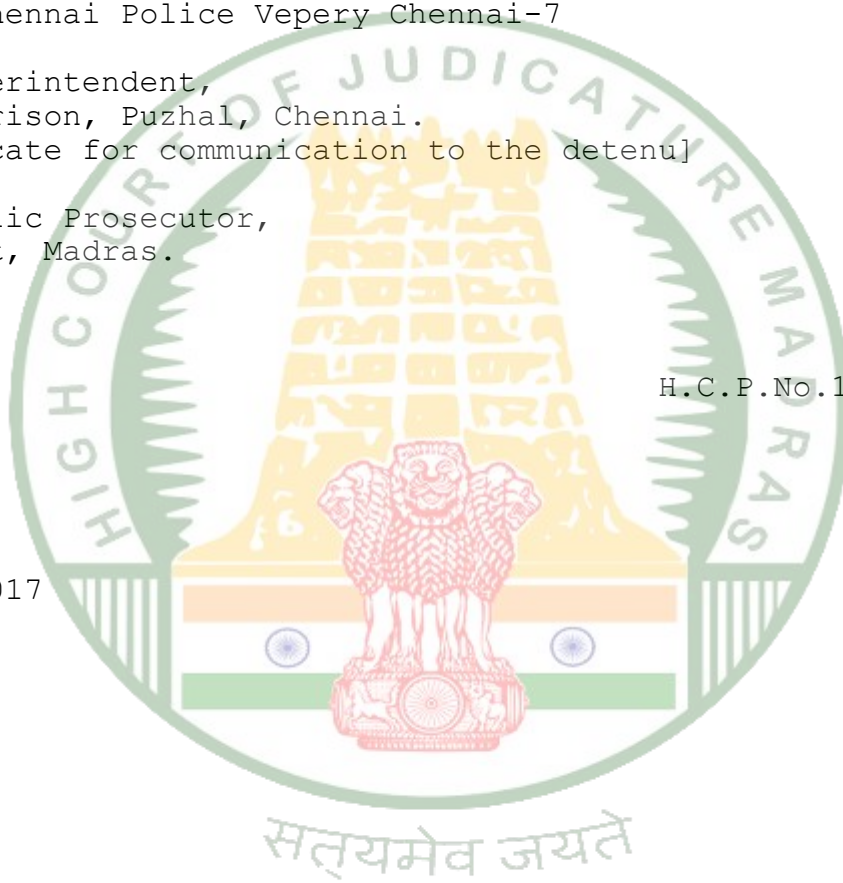
3.The Commissioner of Police,
Greater Chennai Police Vepery Chennai-7

4.The Superintendent,
Central Prison, Puzhal, Chennai.
[in duplicate for communication to the detenul]

5.The Public Prosecutor,
High Court, Madras.

H.C.P.No.1194 of 2017

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