

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 31.07.2017

CORAM

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

H.C.P.No.121 of 2017

Sumathi

.. Petitioner

Vs

1.The District Collector and District Magistrate,
Cuddalore District,
Cuddalore.

2.The Secretary to the Government of Tamil Nadu,
Home, Prohibition and Excise Department,
Secretariat, 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 records in C3/DO/33/2016 on the file of the 1st respondent, quash the detention order dated 16.12.2016 and direct the production of the detenu Murugan @ Vandipalayam Murugan, aged 31 years, S/o.Anbu, presently detained at the Central Prison, Cuddalore, under the Tamil Nadu Act 14 of 1982 before this Hon'ble Court and set him at liberty.

For Petitioner : Mr.A.M.Rahamath Ali

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 C3/DO/33/2016 dated 16.12.2016 by the Detaining Authority against the detenu by name, Murugan @ Vandipalayam Murugan, aged 31 years, S/o.Anbu, residing at No.24, Siva Nagar, Old Vandipalayam Road, Thirupathripuliyur, Cuddalore Taluk, Cuddalore District and quash the same.

2. The Inspector of Police, Cuddalore O.T. 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. Neyveli Township Police Station Crime No.256/2014 registered under Sections 457 and 380 of IPC.
- ii. Neyveli Township Police Station Crime No.264/2014 registered under Sections 457 and 380 of IPC.
- iii. Cuddalore O.T. Police Station Crime No.517/2015 registered under Sections 379 of IPC.
- iv. Cuddalore O.T. Police Station Crime No.521/2015 registered under Sections 457 and 380 of IPC.
- v. Cuddalore O.T. Police Station Crime No.191/2016 registered under Sections 457 and 380 of IPC.

3. Further, it is averred in the affidavit that on 12.11.2016, one Sathish, S/o.Murugaiyan, as de facto complainant has given a complaint, wherein, it is alleged that in the place of occurrence, the detenu by showing a deadly weapon has forcibly taken a sum of Rs.500/- from the shirt pocket of the de facto complainant and consequently, a case has been registered in Crime No.727/2016 under Sections 397 @ 392 and 397 of 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 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. Despite several adjournments granted to the respondents, counter has not been filed and therefore, the present petition is disposed of on the basis of available materials.

6. Learned counsel appearing for the petitioner has contended to the effect that on the side of the detenu, a representation has been submitted to the concerned authorities and the same has 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 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 detenu 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 and 9, 9 clear working days are available and in between column Nos.12 and 13, 19 clear working days are available and no explanation has been given on the side of the respondents with regard to such a huge 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 16.12.2016 passed in C3/DO/33/2016 by the Detaining Authority against the detenu by name, Murugan @ Vandipalayam Murugan, aged 31 years, S/o.Anbu, is quashed and directed to set him at liberty forthwith, unless he is required to be incarcerated in any other case.

Sd/-
Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar

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To

- 1.The District Collector and District Magistrate,
Cuddalore District,
Cuddalore.
- 2.The Secretary to the Government,
Government of Tamil Nadu,
Home, Prohibition and Excise Department,
Secretariat, Chennai-9.
- 3.The Superintendent,
Central Prison, Cuddalore.(In duplicate)
- 4.The Public Prosecutor,
High Court, Madras.
- 5.The Joint Secretary to Government,
Public (Law & Order)
Secretariat, Chennai-9

H.C.P.No.121 of 2017

NR 31/07/2017