

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 19.09.2017

CORAM

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

H.C.P.No.1214 of 2017

Geetha

.. Petitioner

Vs

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

2.The Commissioner of Police,
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 leading to the detention of the petitioner's husband John Basha @ Anbarasu, aged 33 years, S/o.Ismayil, is presently lodged in Central Prison at Puzhal and has been detained under Act 14/1982 as a Goonda vide detention order dated 20.04.2017 on the file of the 2nd respondent herein, made in Memo No.201/BCDFGISSSV/2017 and quash the same and consequently direct the respondents herein to produce the body and person of the said detenu before this Hon'ble Court and thereafter set the detenu at liberty from the Central Prison, Puzhal.

For Petitioner : Mr.S.Sarala

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.201/BCDFGISSSV/2017

dated 20.04.2017 by the Detaining Authority against the detenu by name, John Basha @ Anbarasu, aged 33 years, S/o.Ismayil, residing at No.35, Bababi Dhargah, Cantonment, Kumananchavadi, Chennai-56 and quash the same.

2. The Inspector of Police, D-12 Poonamallee 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. T-12 Poonamallee Police Station Crime No.50/2017 registered under Section 379 of the Indian Penal Code.
- ii. T-12 Poonamallee Police Station Crime No.99/2017 registered under Section 379 of the Indian Penal Code.
- iii. T-12 Poonamallee Police Station Crime No.194/2017 registered under Section 379 of the Indian Penal Code.
- iv. T-12 Poonamallee Police Station Crime No.297/2017 registered under Section 379 of the Indian Penal Code.
- v. T-12 Poonamallee Police Station Crime No.305/2017 registered under Section 392 of the Indian Penal Code.
- vi. T-5 Thiruverkadu Police Station Crime No.461/2017 registered under Section 379 of the Indian Penal Code.

3. Further, it is averred in the affidavit that on 18.03.2017, one Sriviniwasan, aged 45 years, S/o.Chinnakalai, residing at No.02/61, Selvaganapathy Nagar, Senneerkuppam, West Poonamallee, Chennai-56, as de facto complainant has given a complaint against the detenu, wherein, it is alleged to the effect that in the place of occurrence, by showing a knife, the detenu has forcibly taken away a sum of Rs.1,200/- from the custody of the de facto complainant and consequently, a case has been registered in T-12 Poonamallee Police Station Crime No.418/2017 under Sections 341, 336, 427, 392 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 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. On the side of the respondents, counter has not been filed and therefore, the present Habeas Corpus 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 on the side of the detenu, two

representations are submitted, but the same are not disposed of and therefore, the Detention Order in question is liable to be quashed.

7. Learned Additional Public Prosecutor has contended to the effect 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 1st representation, in between column Nos.7 to 9, 6 clear working days are available and in between column Nos.12 and 13, 6 clear working days are available. Likewise, in respect of 2nd representation, in between column Nos.12 and 13, 21 clear working days are available and no explanation has been given on the side of the respondents with regard to such 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 20.04.2017 passed in No.201/BCDFGISSSV/2017 by the Detaining Authority against the detenu by name, John Basha @ Anbarasu, aged 33 years, S/o.Ismayil is quashed and directed to set him at liberty forthwith, unless he is required to be incarcerated in any other case.

Sd/-
Assistant Registrar(CS VIII)

//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,
Fort St. George, Chennai-9.

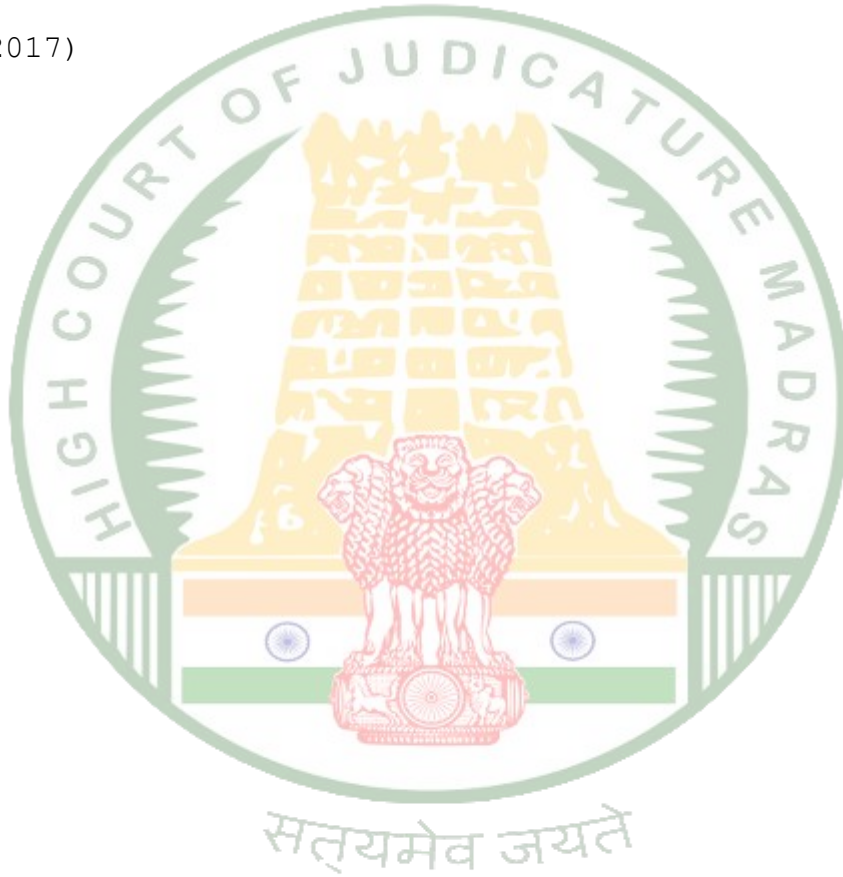
3.The Commissioner of Police,
Chennai Police, Vepery, Chennai-7.

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

5.The Public Prosecutor,
High Court, Madras.

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SKS (CO)
GN(19/09/2017)



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