

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 18.09.2017

CORAM

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

H.C.P.No.1302 of 2017

K.Lakshmi .. Petitioner

Vs

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

2.The District Magistrate & District Collector
Namakkal .. Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS, to produce the body of the detenu, namely K.Manikandan, son of Late Karunakaran, aged about 25 years before this Court and set him at liberty forthwith by calling for the records pertaining to the detention order in C.M.P.No.01/Goonda/2017/M1 dated 18.03.2017 passed by the 2nd respondent, quash the same as illegal, incompetent and ultravires.

For Petitioner : Mr.R.Ezhilarasan

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 the records relating to the Detention Order passed in C.M.P.No.01/Goonda/2017/M1 dated 18.03.2017 by the Detaining Authority against the detenu by name, Manikandan, aged 25 years, S/o.Karunakaran, G.L.D Complex, Anna Nagar, M.G.R.Nagar,

Kumarapalayam, Namakkal District and quash the same.

2. The Inspector of Police, Komarapalayam Police Station, as sponsoring authority, has submitted an affidavit to the Detaining Authority, wherein it is averred to the effect that on 28.01.2017, one Kaliammal, W/o.Sengodan, Ayyampalayam, Paraiyur, as defacto complainant, has given a complaint in Komarapalayam Police Station, wherein it is alleged that in the place of occurrence she and her son have found the dead body of her husband. Due to that, a case has been registered in Crime No.34 of 2017 under Section 174 of the Code of Criminal Procedure, 1973.

3. Further it is averred in the affidavit that the Inspector of Police has taken up investigation, examined connected witnesses and subsequently arrested the accused and on the basis of their confession, Section of Law has been altered into Section 302 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 and other connected documents, has derived a subjective satisfaction to the effect that the detenu has committed grave offence 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 mother of the detenu, as petitioner.

5. On the side of the respondents, counter has not been filed and therefore, the present petition is disposed of on the basis of available materials on records.

6. Learned counsel appearing for the petitioner has contended to the effect that on the side of the detenu, a representations 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. Learned Additional Public Prosecutor has contended 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 and 9, 14 clear working days are available and in between column Nos.12 and 13, 18 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 18.03.2017 passed in C.M.P.No.01/Goonda/2017/M1 by the Detaining Authority against the detenu by name, Manikandan, aged 25 years, S/o.Karunakaran, is quashed and directed to set him at liberty forthwith, unless he is required to be incarcerated in any other case.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

- 1.The Joint Secretary to Government of Tamil Nadu,
Public [Law and Order] Department,
Secretariat, Chennai-9.
2. The Secretary to Government
Prohibition and Excise Department
Fort St. George
Chennai - 9
- 3.The District Magistrate & District Collector
Namakkal
- 4.The Superintendent
Central Prison, Salem
- 5.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.R.Ezhilarasan, Advocate sr.67861

H.C.P.No.1302 of 2017

ss(18/9/2017)