

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.1303 of 2017

Abdul Rahman

... Petitioner

Vs

1.The State of Tamil Nadu  
Represented by its Secretary  
to Government  
Home, Prohibition and Excise Department  
Secretariat, Chennai - 600 009

2. The District Magistrate and  
the District Collector  
The Nilgiris District  
Udhagamandalam

... Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS, calling for the records of the detention made in Cr.M.P.No.01/2017 (Goonda) dated 06.04.2017 passed by the District Magistrate and District Collector, The Nilgiris District, Udhagamandalam, the second respondent herein and set aside the same and direct the respondents to produce the detenu Thiru.Shajahan, S/o.Abdul Rehman, now confined in Central Prison, Coimbatore before this Court and set the detenu at liberty.

For Petitioner : Mr.A.Abdul Lathif

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 Cr.M.P.No.1/2017 (Goonda) dated 06.04.2017, against the detenu by name, Shajahan, aged 27 years, S/o.Abdul Rahman, residing at Door No.167, Podanur Main Road, NB Itteri, Podanur, Coimbatore District and quash the same.

2. The Inspector of Police, Wellington 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) Coimbatore City B2 RS Puram Police Station, Crime No.886 of 2015, registered under Section 392 of Indian Penal Code;

ii) Coimbatore City B2 RS Puram Police Station, Crime No.46 of 2016, registered under Section 392 r/w. 397 of Indian Penal Code;

iii) The Nilgiris District, Wellington Police Station, Crime No.4 of 2017, registered under Section 457 and 380 of Indian Penal Code; and

iv) The Nilgiris District, Wellington Police Station, Crime No.14 of 2017, registered under Section 457 and 380 of Indian Penal Code

3. Further it is averred in the affidavit that on 24.01.2017 at about 17.15 hours, one Johnbritto, S/o.Yesudass, No.370, Cruzepet, Boys Company, as defacto complainant, has lodged a complaint in Wellington Police Station, wherein it is alleged to the effect that in the place of occurrence, the detenu and others have demanded money from the defacto complainant by showing a deadly weapon and due to that, a case has been registered in Crime No.39 of 2017 under Sections 398 and 506 (ii) of Indian Penal Code and subsequently altered into Sections 120-B, 398 and 506(ii) 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 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. Therefore, the present petition is disposed of on merits on the basis of available materials on record.

6. The 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. The 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 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 and 9, 4 clear working days are available and in between column Nos.12 and 13, 21 clear working day is available and no explanation has been given on the side of the respondents with regard to such delay and that the same would affect the rights of the detenu guaranteed under Article 22(5) of the Constitution of India.

9. In fine, this Habeas Corpus Petition is allowed and the Detention Order dated 06.04.2017 passed in Cr.M.P.No.1/2017 (Goonda) by the second respondent against the detenu by name, Shajahan, aged 27 years, S/o.Abdul Rahman is quashed and directed to set him at liberty forthwith unless he is required to be incarcerated in any other case.

Sd/-

सत्यमेव जयते  
Assistant Registrar(CCC)

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Sub Assistant Registrar

gpa

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 - 600 009

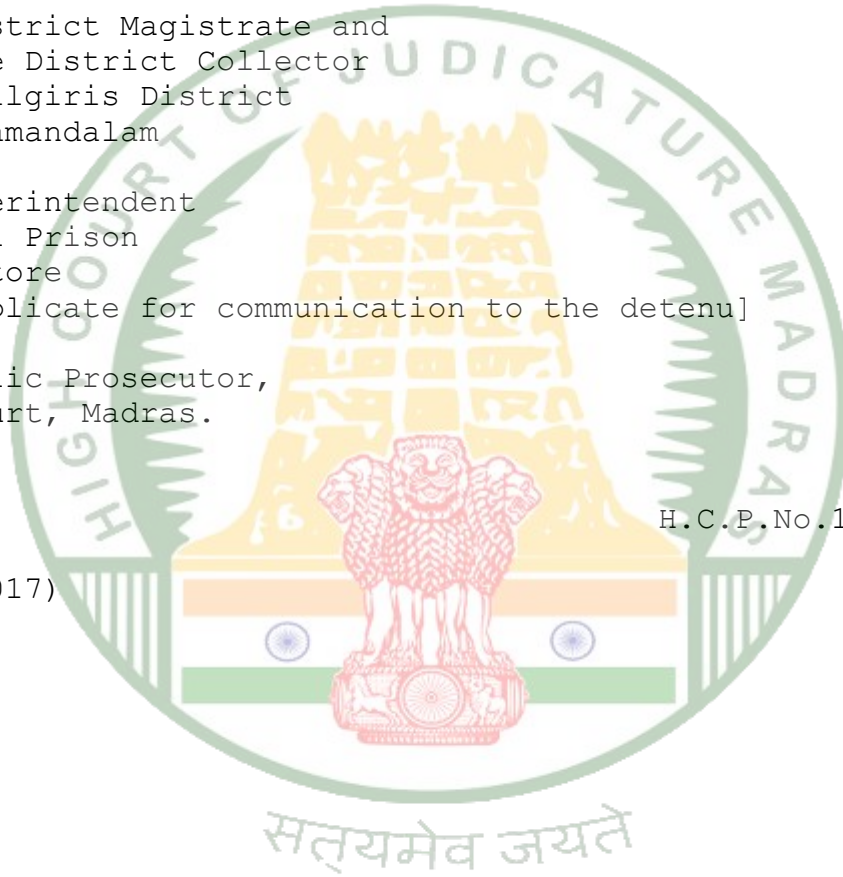
3. The District Magistrate and  
the District Collector  
The Nilgiris District  
Udhagamandalam

4.The Superintendent  
Central Prison  
Coimbatore  
[in duplicate for communication to the detenu]

5.The Public Prosecutor,  
High Court, Madras.

H.C.P.No.1303 of 2017

ss (18/9/2017)



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