

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 20.07.2017

CORAM

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

H.C.P.No.131 of 2017

Synash

... Petitioner

Vs

1.The State of Tamil Nadu,
Rep. by the Secretary,
Home, Prohibition and Excise Department,
Fort St. George, 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 relating to the Detention Order vide Memo No.BCDFGISSSV No.1208/2016 dated 03.12.2016, passed by the 2nd respondent under Tamil Nadu Act 14/82 and quash the same and produce petitioner's husband Zahir Hussain, aged 32 years, S/o.Hajibai, before this Hon'ble Court and set him at liberty.

For Petitioner : Mr.M.Shiva Sudhaakar
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.1208/BCDFGISSSV/2016 dated 03.12.2016 by the Detaining Authority against the detenu by name, Zahir Hussain, aged 32 years, S/o.Hajibai, residing at No.12, Dr.Ansari Street, 5th Lane, Pulianthope, Chennai-12 and quash the same.

2. The Inspector of Police, C-1 Crime Flower Bazaar 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. C-4 Rajiv Gandhi Government Hospital Police Station Crime No.54/2016 registered under Section 380 of Indian Penal Code.
- ii. C-4 Rajiv Gandhi Government Hospital Police Station Crime No.55/2016 registered under Section 380 of Indian Penal Code.
- iii. C-4 Rajiv Gandhi Government Hospital Police Station Crime No.56/2016 registered under Section 380 of Indian Penal Code.
- iv. C-4 Rajiv Gandhi Government Hospital Police Station Crime No.57/2016 registered under Section 380 of Indian Penal Code.

3. Further, it is averred in the affidavit that on 14.10.2016, one Pachai Muthu, S/o.Kannaiyan, residing at No.35/24, Mariyamman Koil Street, Kallai Village, Kunnam Taluk, Perambalur District, as de facto complainant has given a complaint, wherein, it is stated that in the place of occurrence, the accused has attacked the de facto complainant by using a deadly weapon and snatched a sum of Rs.650/- from him and consequently, a case has been registered in Crime No.1196/2016 under Sections 341, 294[b], 336, 427, 397 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 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, a detailed counter has been filed, wherein, it has been contended inter alia to the effect that most of the averments made in the petition are false. The Sponsoring Authority has supplied all the materials to the Detaining Authority. The Detaining Authority after perusing all the materials, 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 the same does not call for any interference and therefore, the present petition deserves to be dismissed.

6. Learned counsel appearing for the petitioner has contended to the effect that on the side of the petitioner, a representation has been submitted to the concerned authorities. 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 to the effect that the representation submitted on the side of the petitioner has been 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 has been clearly stated that in between column Nos.7 and 9, 14 clear working days are available. Likewise, in between column Nos.12 and 13, 3 clear working days are available and no explanation has been given on the side of the respondents 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 03.12.2016 passed in No.1208/BCDEGISSSV/2016 by the Detaining Authority against the detenu by name, Zahir Hussain, aged 32 years, S/o.Hajibai, 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 IV)

/true copy/

सत्यमेव जयते
Sub Asst. Registrar

gya

To

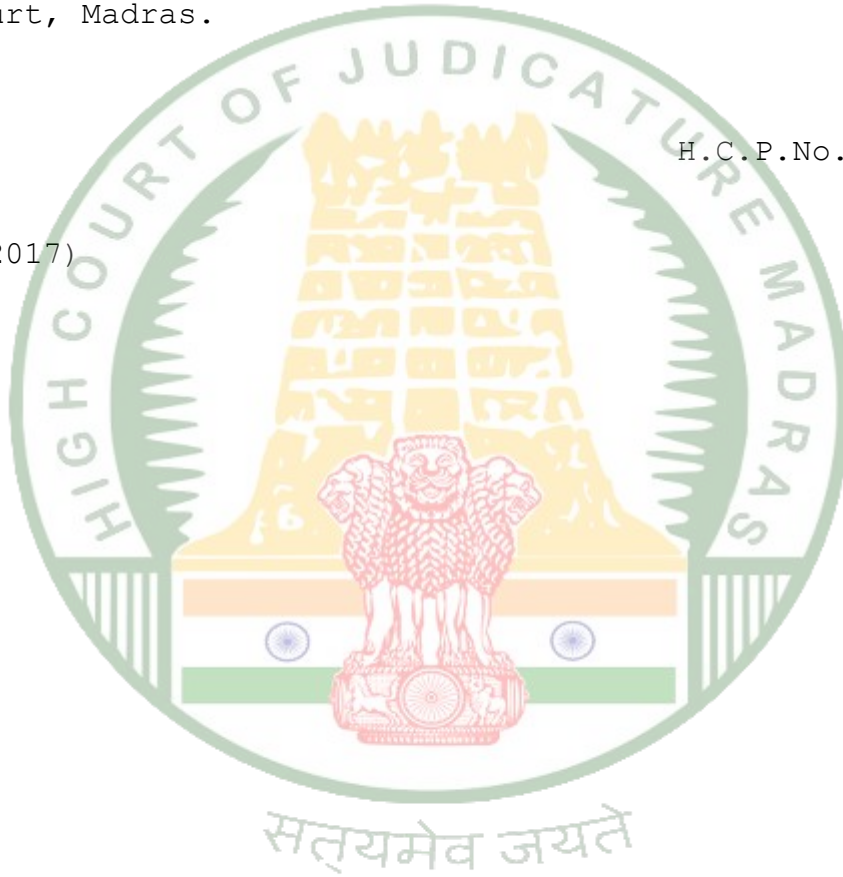
1.The Secretary to Government,
Government of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St. George, Chennai-9.

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- 2.The Commissioner of Police,
Greater Chennai,
Vepery, Chennai-7.
- 3.The Superintendent, Central Prison,
Puzhal, Chennai. (with duplicate)
- 4.The Joint Secretary to Government,
Public (Law & Order) department,
Fort St.George, Chennai-9.
- 5.The Public Prosecutor,
High Court, Madras.

H.C.P.No.131 of 2017

VR(20/07/2017)



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