

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 19.07.2017

CORAM

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

H.C.P.No.142 of 2017

Chinnakannu

.. Petitioner

Vs

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

2.The District Collector and
District Magistrate
Krishnagiri District
Krishnagiri

.. 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 connection with the order of detention passed by the 2nd respondent in his proceedings S.C.No.48 of 2016 dated 25.11.2016 against the petitioner's son Ajithkumar @ Ajith, Son of Perumal, aged 21 years, who is confined at Borstal School, Pudukottai and set aside the same and direct the respondents to produce the detainee before this Court and set him at liberty.

For Petitioner : Mr.D.Ramesh Kumar

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 S.C.No.48 of 2016 dated 25.11.2016, against the detenu by name, Ajith Kumar @

Ajith, aged 21 years, S/o.Perumal, residing at D.No.1/28, Rajaji Nagar, Palaguri Village, Bellarampalli Post, Krishnagiri Taluk and District and quash the same.

2. The Inspector of Police, Kelamangalam Police Station, as Sponsoring Authority, has submitted an affidavit to the Detaining Authority, wherein, it is averred that the detenu has involved in the following adverse cases:-

i) Thally Police Station, Crime No.83 of 2016, registered under Section 392 of Indian Penal Code ;

ii) Royakottai Police Station, Crime No.210 of 2016, registered under Section 379 of Indian Penal Code;

iii) Uddanappalli Police Station, Crime No.280 of 2016, registered under Sections 454 and 380 of Indian Penal Code;

iv) Kelamangalam Police Station, Crime No.254 of 2016, registered under Sections 454 and 380 of Indian Penal Code; and

v) Uddanappalli Police Station, Crime No.357 of 2016, registered under Section 379 of Indian Penal Code.

3. Further, it is averred in the affidavit that on 16.10.2016 at about 09.00 am, one Ramesh, S/o. Madhan, as defacto complainant, has given a complaint against the detenu and another, wherein it has been specifically stated that in the place of occurrence, by showing a deadly weapon, the detenu and another have snatched a sum of Rs.500/- from his shirt pocket and consequently, a case has been registered in Crime No.314 of 2016 under Sections 294(b), 392 r/w.397, 506(ii) and 427 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 materails, 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 mother of the detenu, as petitioner.

5. On the side of the respondents, a counter has been filed, wherein, it is contended to the effect that most of the averments made in the petition are false and the Sponsoring Authority has submitted all the material records to the Detaining Authority and the Detaining Authority, after considering all the relevant materials, 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 the same does not call for any interference and therefore, the present petition deserves to be dismissed.

6. The learned counsel appearing for the petitioner has contended to the effect that on the side of the detenu, a representation has been given, but the same has not been disposed of without delay and therefore, the Detention Order in question is liable to be quashed.

7. Per contra, the 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 has been clearly stated that in between column Nos.7 and 9, 47 clear working days are available and in between column Nos.12 and 13, 30 clear working days are available and no explanation has been given on the side of the respondents with regard to such huge delay and that the same would affect the rights of the detenu guaranteed under Article 22(5) of the Constitution of India and that itself would be sufficient to quash the Detention Order in question.

9. In fine, this Habeas Corpus Petition is allowed and the Detention Order dated 25.11.2016 passed in S.C.No.48 of 2016 by the second respondent against the detenu by name, Ajith Kumar @ Ajith, aged 21 years, S/o.Perumal, residing at D.No.1/28, Rajaji Nagar, Palaguri Village, Bellarampalli Post, Krishnagiri Taluk and District 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 VIII)

/true copy/

Sub Asst. Registrar

To

1. The Secretary to Government
Home, Prohibition and Excise Department
Fort St. George
Chennai - 600 009
2. The District Collector and
District Magistrate
Krishnagiri District
Krishnagiri
3. The Superintendent,
Borstal School, Pudukottai.

4. The Joint Secretary to Government,
Public (Low & Order)
Fort St.George, Chennai-9

5. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.D.Ramesh Kumar, Advocate in sr.no.50421

H.C.P.No.142 of 2017

RSY (CO)
NR 20/07/2017



WEB COPY