

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 18.08.2017

CORAM

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

H.C.P.No.146 of 2017

K.Revathi ... Petitioner

Vs

1.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,
Kancheepuram District. ... Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS, to call for the records of the 1st respondent pertaining to the order made in BCDFGISSSV No.01/2017 dated 10.01.2017 in detaining the detenu under the Tamil Nadu Act 14/1982 as a goonda and quash the same and direct the respondents to produce the detenu, namely, Kalaivanan, aged 33 years, S/o.Duari, who is detained at the Central Prison, Puzhal, Chennai before this Hon'ble Court and set him at liberty.

For Petitioner : Mr.J.Franklin

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 BCDFGISSSV No.01/2017 dated 10.01.2017 by the Detaining Authority against the detenu by name, Kalaivanan, aged 33 years, S/o.Duari, residing at Ganapathy Nagar, Athur Village, Chengalpattu Taluk, Kancheepuram District and quash the same.

2. The Inspector of Police, Chengalpattu 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 case :

i. Chengalpattu Police Station Crime No.220/2016 registered under Sections 294[b], 506[iii] and 302 of IPC.

3. Further, it is averred in the affidavit that on 09.10.2016 at about 16.30 hrs, one Gunasekaran, aged 46 years, S/o.Shanmugasundaram, residing at No.20, Alagesan Salai, Vedhachalam Nagar, Chengalpattu, as de facto complainant has given a complaint, wherein, it is alleged to the effect that in the house of the de facto complainant, his mother by name Jotheeswari, aged 71 years, has been murdered and all her belongings have been looted. Under such circumstances, a case has been registered in Crime No.543/2016 under Sections 302 and 380 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 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. Despite repeated adjournments, on the side of the respondents, counter has not been filed. Under such circumstances, the present petition is disposed of on the basis of the 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 to the concerned authorities and the same have 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 representations submitted on the side of the detenu are duly disposed of without delay and therefore, the contention urged on the side of the detenu 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.12 and 13, 4 clear working days are available. Likewise, in respect of 2nd representation, in between column Nos.7 and 9, 8 clear working days are available and in between column Nos.12 and 13, 6 clear working days are available and no explanation has been given on the side of the respondents with regard to such 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 10.01.2017 passed in BCDFGISSSV No.01/2017 by the Detaining Authority against the detenu by name, Kalaivanan, aged 33 years, S/o.Duari 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

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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 Government,
Home, Prohibition and Excise Department,
Fort St. George, Chennai-9.

3.The District Collector and District Magistrate,
Kancheepuram District.

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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vsn(co)
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