

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.08.2017

CORAM

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

H.C.P.No.1477 of 2017

Kathirvel

... Petitioner

Vs

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

2.The District Collector,
O/o.The District Collector,
Dharmapuri.

... Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS, to call for the records pertaining to the order of detention passed by the 2nd respondent in S.C.No.10/2017 dated 25.03.2017 and set aside the same and direct the respondents to produce the detenue Kathirvel, aged 25 years, S/o.Shankar, who is detained at Central Prison, Salem, before this Hon'ble Court and set him at liberty.

For Petitioner : Mr.H.Maruthiraj

For Respondents : Mr.V.M.R.Rajentren,
Additional Public Prosecutor

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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 S.C.No.10/2017 dated 25.03.2017 by the Detaining Authority against the detenu by name, Kathirvel, aged 25 years, S/o.Shankar, residing at Silandiyannalli Village, Athurnalli Post, Karimangalam Taluk, now

at Pallavan Bank back side, Vellichandai, Palacode Taluk, Dharmapuri District and quash the same.

2. The Inspector of Police, Krishnapuram 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. Palacode Police Station Crime No.381/2016 registered under Section 379 of the Indian Penal Code.
- ii. Palacode Police Station Crime No.383/2016 registered under Section 379 of the Indian Penal Code.
- iii. Dharmapuri Police Station Crime No.192/2017 registered under Section 379 of the Indian Penal Code.

3. Further, it is averred in the affidavit that on 21.02.2017, one Vadivel, S/o.Govinda Gounder, residing at P.Mottuppatti Village, Krishnapuram Post, Dharmapuri District, as de facto complainant has given a complaint, wherein, it is alleged that on the same day, in the place of occurrence, by showing a knife to the de facto complainant, the detenu has forcibly taken away a sum of Rs.250/-. Under such circumstances, a case has been registered in Crime No.69/2017 under Sections 392 and 397 of the 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 detenu himself has filed this petition as petitioner.

5. On the side of the respondents, counter has not been filed and therefore, the present Habeas Corpus petition has been disposed of on merits on the basis of available materials on record.

6. Learned counsel appearing for the petitioner/detenu has contended to the effect that 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. Learned Additional Public Prosecutor has also contended that the representation submitted by the petitioner/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 to 9, 19 clear working days are available and in between column Nos.12 and 13, 13 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 25.03.2017 passed in S.C.No.10/2017 by the Detaining Authority against the detenu by name, Kathirvel, aged 25 years, S/o.Shankar is quashed and directed to set him at liberty forthwith, unless he is required to be incarcerated in any other case.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Secretary to Government,
Department of Home, Prohibition and Excise,
Secretariat,
Fort St. George, Chennai.
- 2.The District Collector,
O/o.The District Collector,
Dharmapuri.
- 3.The Superintendent,
Central Prison, Salem.
[in duplicate for communication to the detenu]
- 4.The Joint Secretary to Government of Tamil Nadu,
Public [Law and Order] Department,
Secretariat, Chennai-9.
- 5.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.H.Maruthi Raj, Advocate, S.R.No.62369

H.C.P.No.1477 of 2017

RJ(CO)
CA(30/08/2017)