

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 28.07.2017

CORAM

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

H.C.P.No.153 of 2017

T.Srinivasan

.. Petitioner

Vs

1.State of Tamil Nadu,
Rep. by its Secretary to the 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 entire records of the 2nd respondent, in his proceedings S.C.No.26/2016 dated 07.09.2016 to quash the same and consequently direct the respondents to produce the detenu Srinivasan, aged 26 years, S/o.Thimmappa, now confined in Central Prison, Salem, set him at liberty forthwith.

For Petitioner : Mr.C.Adhikesavan

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 S.C.No.26/2016 dated 07.09.2016 by the Detaining Authority against the detenu by name, Srinivasan, aged 26 years, S/o.Thimmappa, residing at Thinnappalli Post, Masthi Obli, Malur Taluk, Kolar District, Karnataka State and quash the same.

2. The Inspector of Police, Veppanappalli 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. Veppanappalli Police Station Crime No.274/2015 registered under Sections 120[b], 448 and 302 of IPC.
- ii. Gurubarappalli Police Station Crime No.20/2016 registered under Sections 457 and 380 of IPC.

3. Further, it is averred in the affidavit that on 01.08.2016, one Thimmaraj, S/o.Kamala Naidu as de facto complainant has given a complaint to the Sub Inspector of Police, Veppanappalli Police Station, wherein, it is stated that on the same day at about 6.00 p.m., in the place of occurrence, the detenu has snatched a sum of Rs.4,000/- from the de facto complainant by showing a knife and consequently, a case has been registered in Crime No.222/2016 under Section 392 of IPC 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 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 detenu himself as petitioner.

5. Even though this petition has been posted today for filing counter finally, counter has not been filed. Under such circumstances, this petition is disposed of on the basis of available materials on record.

6. Learned counsel appearing for the petitioner/detenu has contended to the effect that the detenu has been served with a booklet which contains some material documents. But, in most of the pages, the concerned documents are not readable and the same would affect the rights of the detenu and therefore, the Detention Order in question is liable to be quashed.

7. Learned Additional Public Prosecutor has submitted the concerned booklet, wherein, page No.24 copy of the inquest report is available. But, the same is not readable. Likewise, Tamil version of the First Information Report is not available in the booklet. The infirmities mentioned supra would really 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.

8. In fine, this petition is allowed. The Detention Order dated 07.09.2016 passed in S.C.No.26/2016 by the Detaining Authority against the detenu by name, Srinivasan, aged 26 years, S/o.Thimmappa, 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 II)

/true copy/

Sub Asst. Registrar

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To

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

2.The District Collector and District Magistrate,
Krishnagiri District,
Krishnagiri.

3.The Joint Secretary to
Government of TamilNadu,
Law & Order Department,
Secretariate,
Fort St. George,
Chennai-9.

4.The Superintendent,
Central Prison, Salem.

5.The Public Prosecutor,
High Court, Madras.

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ss(28/7/2017)

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