

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.162 of 2017

J.Easwari

... Petitioner

Vs

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

2. The District Collector and District Magistrate  
Vellore District  
Vellore

... 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 2nd respondent herein concerned in C3.D.O.NO.84 / 2016 dated 18.12.2016, setting aside the order of detention passed therein against the detenu by name Jayakumar, aged about 39 years, Son of Arumugam, now detained in Central Prison, Vellore, residing at No.780, Bajanaikoil Street, Kangeyanallur, Katpadi Taluk, Vellore District, quashing the same and setting him at liberty.

For Petitioner : Mr.A.Kumanaraja

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 C3.D.O.No.84 /2016 dated 18.12.2016 by the Detaining Authority against the detenu

by name, Jayakumar, aged about 39 years, Son of Arumugam, No.780, Bajanai Koil Street, Kangeyanallur, Katpadi Taluk, Vellore District and quash the same.

2. The Inspector of Police, Virudhampet 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. Katpadi Police Station, Crime No.121 of 2016, registered under Section 379 of Indian Penal Code;
- ii. Katpadi Police Station, Crime No.252 of 2016, registered under Section 379 of Indian Penal Code;
- iii. Virudhampet Police Station, Crime No.238 of 2016, registered under Section 379 of Indian Penal Code;
- iv. Katpadi Police Station, Crime No.325 of 2016, registered under Section 379 of Indian Penal Code;
- v. Gudiyatham Town Police Station, Crime No.464 of 2016, registered under Section 379 of Indian Penal Code, altered into Section 392 of Indian Penal Code;
- vi. Virudhampet Police Station, Crime No.497 of 2016, registered under Section 397 of Indian Penal Code;
- vii. Virudhampet Police Station, Crime No.499 of 2016, registered under Section 397 of Indian Penal Code; and
- viii. Virudhampet Police Station, Crime No.502 of 2016, registered under Section 397 of Indian Penal Code.

3. Further it is averred in the affidavit that on 17.10.2016 at about 10.45 am, one Devan, aged 32 years, S/o.Deivasigamani residing at No.4/354, Bajanai Koil Street, Kangeyanallore, Gandhi Nagar, Katpadi, Vellore-7, as de facto complainant, has given a complaint against the detenu wherein it has been specifically stated that the detenu has attempted to attack the defacto complainant by using a knife and ultimately he snatched a sum of Rs.200/- from the defacto complainant and consequently, a case has been registered in Crime No. 503 of 2016, under Sections 341, 427, 392 r/w.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 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 wife of the detenu as petitioner.

5. Even though several adjournments have been granted for filing counter on the side of the respondents, counter has not been filed. Under such circumstances, this Habeas Corpus Petition is disposed of on merits on the basis of available materials.

6. Learned counsel appearing for the petitioner has contended to the effect that on the side of detenu two representations have been given concerned authorities. But, 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 that the representations given on the side the detenu have been disposed of without delay and the said circumstances, the present petition deserves to be dismissed.

8. On the side of the respondents, a proforma has been submitted, wherein, it has been clearly stated in respect of both representations, in between column Nos.7 and 9, twenty working days are available and in between column Nos.12 and 13, five 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 18.12.2016 passed in C3.D.O.No.84 /2016 by the Detaining Authority against the detenu by name, Jayakumar, aged about 39 years, Son of Arumugam, No.780, Bajanai Koil Street, Kangeyanallur, Katpadi Taluk, Vellore 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 II )

/true copy/

Sub Asst. Registrar

gpa

To

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

2. The District Collector and District Magistrate  
Vellore District  
Vellore

3. The Superintendent  
Central Prison  
Vellore

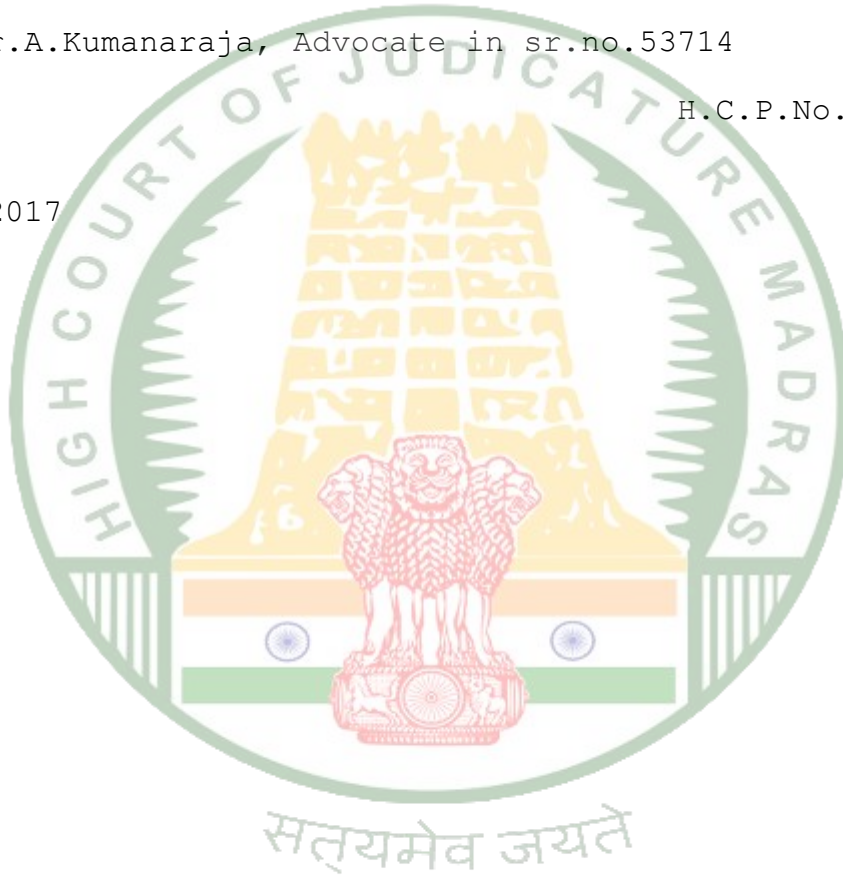
4. The Joint Secretary to Government,  
Public (Law & Order) Department,  
Fort St.George,  
Chennai.

5. The Public Prosecutor,  
High Court, Madras.

+lcc to Mr.A.Kumanaraja, Advocate in sr.no.53714

H.C.P.No.162 of 2017

NRJK(CO)  
NR 29/07/2017



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