

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 31.07.2017

CORAM

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

H.C.P.No.166 of 2017

Shanthi

... Petitioner

Vs

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

2.The District Collector and District Magistrate,
Nagapattinam,
Nagapattinam 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 relating to the detention order passed by the 2nd respondent in C.O.C.No.71/2016 dated 10.11.2016 and quash the same and direct the respondents to produce the detenu Kamaraj, aged 26 years, S/o.Santhanam, who is detained at Central Prison, Cuddalore before this Hon'ble Court and set him at liberty.

For Petitioner : Mr.M.R.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 C.O.C.No.71/2016 dated 10.11.2016 by the Detaining Authority against the detenu by name, Kamaraj, aged 26 years, S/o.Santhanam, residing at Thenpathi Street, Senthangudi, Mayiladuthurai & Post, Mayiladuthurai Taluk, Nagapattinam District and quash the same.

2. The Inspector of Police, Mayiladuthurai 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. Mayiladuthurai Police Station Crime No.02/2015 registered under Sections 147, 148, 294[b], 352, 324, 326, 307, 302 of IPC r/w 34 and 149 of Indian Penal Code.

ii. Mayiladuthurai Police Station Crime No.72/2016 registered under Sections 120[b] of Indian Penal Code r/w 25[1][B] of Indian Arms Act, 1959 and Sections 4, 5 and 6 of Explosive Substance Act, 1908.

iii. Mayiladuthurai Police Station Crime No.777/2016 registered under Sections 294[b], 386 and 506[ii] of Indian Penal Code.

3. Further, it is averred in the affidavit that on 24.10.2016, one Ramesh, S/o.Kannaiyan, as de facto complainant has given a complaint in Mayiladuthurai Police Station, wherein, it is averred that in the place of occurrence, the detenu has tried to attack the de facto complainant by using filthy words and also created panic in the minds of the general public by using deadly weapon and consequently, a case has been registered in Crime No.779/2016 under Sections 294[b], 352, 392 and 506[ii] of Indian Penal Code r/w 3[1] of TNPPDL Act and ultimately, requested the Detaining Authority to invoke Act 14 of 1982 against the detenu.

4. The Detaining Authority after considering the gravity of offence alleged to have been committed by the detenu, 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. Despite several adjournments have been given for filing counter on the side of the respondents, counter has not been filed and therefore, the present petition is disposed of on the basis of available materials.

6. Learned counsel appearing for the petitioner has contended to the effect that the detenu has been arrested in the ground case and so many vital documents in the booklet are not readable and the same could affect the rights of the detenu and therefore, the Detention Order in question is liable to be quashed.

7. Per contra, the learned Additional Public Prosecutor has contended that all the documents in the booklet are easily readable and nothing would cause prejudice to the detenu and

therefore, the contention put forth on the side of the petitioner is liable to be rejected.

8. In fact, this Court has perused the entire booklet, wherein, certain vital documents are not readable. Since certain documents furnished to the detenu are not readable, 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 10.11.2016 passed in C.O.C.No.71/2016 by the Detaining Authority against the detenu by name, Kamaraj, aged 26 years, S/o.Santhanam, 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 III)

/true copy/

Sub Asst. Registrar

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To

- 1.The Secretary to Government,
Government of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St. George, Chennai-9.
- 2.The District Collector and District Magistrate,
Nagapattinam,
Nagapattinam District.
- 3.The Superintendent,
Central Prison, Cuddalore.
- 4.The Public Prosecutor,
High Court, Madras.
- 5.The Joint Secretary to Government,
Public (L & O) department,
Fort St.George, Chennai-9.

H.C.P.No.166 of 2017

VR(31/07/2017)