

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.169 of 2017

Lakshmi Petitioner/Mother of the detenue
vs.

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

2.The Commissioner of Police,
Greater Chennai Police,
Egmore,
Chennai-600 008

... Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of habeas corpus calling for the records in connection with the order of detention passed by the 2nd respondent dated 09.01.2017, in Memo No.12/BDFGISSV/2017, against the son of the petitioner Thirupathi, M/A, 35, son of Muthu, who is confined at Central Prison, Puzhal, Chennai and set aside the same and consequently direct the respondents to produce the detenue before this Court and set him at liberty.

For Petitioner : Mr.S.Senthilvel for
Mr.R.Velmurugan

For Respondents: Mr.V.M.R.Rajentran, Addl.P.P.

ORDER
(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 the records relating to detention order passed in No.12/BCDFGISSSV/2017, dated 09.01.2017, by the detaining authority against the detenu, by name Thirupathi, aged 34 years, S/o Muthu, residing at No.2, 4th Lane, S.N.Chetty Street, Kasimedu, Chennai-13 and quash the same.

2. The Inspector of Police, Tondiarpet 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. Tiruvallur District, C2 Periyapalayam Police Station, Cr.No.236 of 2014, registered under Sections 147, 148, 341, 302 and 506(ii) of the Indian Penal Code.
- ii. Tiruvallur District, C2 Periyapalayam Police Station, Cr.No.237 of 2014, registered under Sections 341, 336, 427, 392 read with 397 and 506(ii) of the Indian Penal Code.
- iii. H3, Tondiarpet Police Station, Cr.No.873 of 2016, registered under Section 392 of the Indian Penal Code.

3. Further, it is averred in the affidavit that on 16.10.2016, one Thennarasu, aged 48 years, son of Poovanna Thevar, residing at No.4, Rettai Kuzhi Street, Tondiarpet, Chennai-81, as defacto complainant, has given a complaint in Tondiarpet Police Station, against the detenu, wherein it is alleged to the effect that in the place of occurrence, the detenu, with an intention to murder the defacto complainant, has attacked him by using filthy words and consequently, a case has been registered in Crime No.879 of 2016, under Sections 341, 2944(b), 336, 427, 307 and 506(ii) 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 derived subjective satisfaction to the effect that the detenu is a habitual offender and ultimately branded him as a '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. In the counter filed on the side of the respondents it is averred to the effect that most of the averments made in the petition are false. The sponsoring authority has submitted all the relevant materials to the detaining authority. The detaining authority, after considering all the relevant materials and other connected documents, has derived subjective satisfaction to the effect that the detenu is a habitual offender and ultimately branded him as a 'goonda' by way of passing the impugned detention order and the same does not require any interference and therefore, the present petition deserves to be dismissed.

6.The learned counsel appearing for the petitioner has contended to the effect that on the side of the detenu, two representations have been submitted and the same have not been disposed of without delay and therefore, the detention order in question is liable to be quashed.

7. Per contra, the learned Additional Public Prosecutor appearing for the respondents has contended that the representations submitted on the side of the detenu have already been 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 respect of the first representation, in between Column Nos.7 to 9, seven clear working days are available and in between Column Nos.12 and 13, three clear working days are available and in respect of the second representation, in between Column Nos.7 to 9, seventeen clear working days are available and in between Column Nos.12 and 13, three 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.

In fine, this Habeas Corpus Petition is allowed. The detention order dated 09.01.2017, passed in No.12/BCDFGISSSV/2017, by the detaining authority against the detenu, by name Thirupathi, aged 34 years, S/o Muthu, residing at No.2, 4th Lane, S.N.Chetty Street, Kasimedu, Chennai-13, is quashed and the respondents are directed to set him at liberty forthwith, unless he is required to be incarcerated in connection with some other case.

Sd/-

Asst.Registrar (CS VIII)

/true copy/

Sub Asst. Registrar

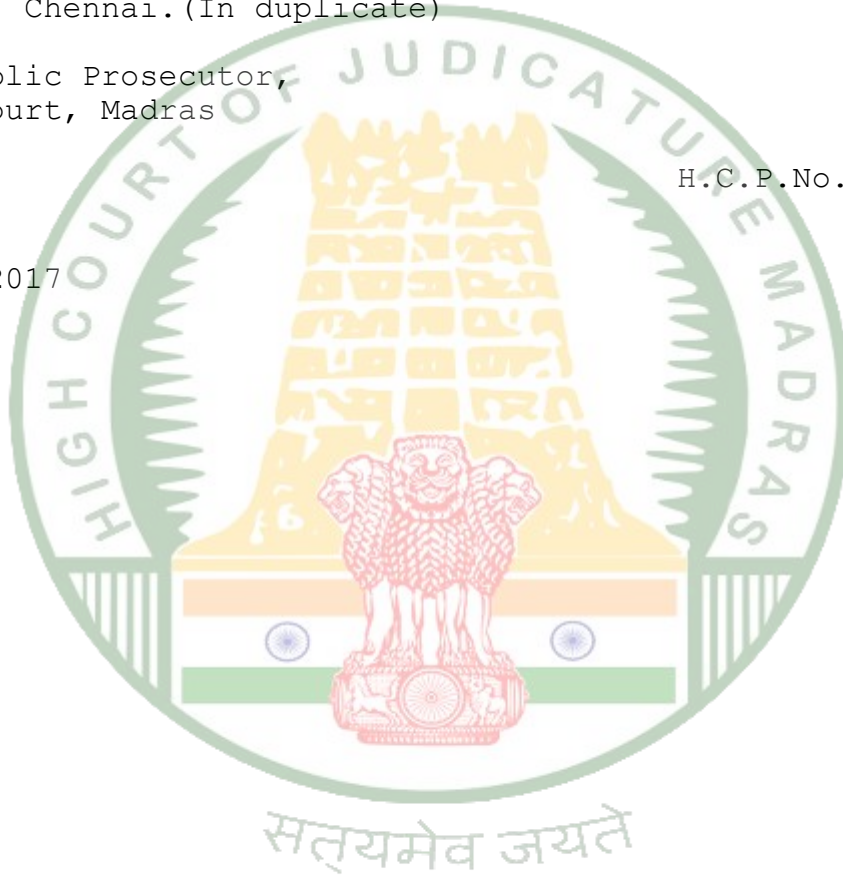
To

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 Commissioner of Police,
Greater Chennai Police,
Egmore,
Chennai-600 008
4. The Superintendent,
Central Prison,
Puzhal, Chennai.(In duplicate)
5. The Public Prosecutor,
High Court, Madras

H.C.P.No.169 of 2017

NMI (CO)
NR 18/08/2017



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