

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.11.2017

Coram

THE HON'BLE MR.JUSTICE RAJIV SHAKDHER
&
THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

H.C.P.No.1699 of 2017

Rajamani

... Petitioner

Vs.

1.The State of Tamil Nadu
Rep. By its Secretary to Government (Home),
Prohibition and Excise Department
Fort St. George,
Chennai - 600 009.

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

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, calling for the entire records relating to the impugned order of detention passed by the 2nd respondent in C3/D.O//44/2017 dated 20.07.2017 and set aside the same and consequently direct the respondents to produce the detenu Ramesh, S/o.Ganesan, aged about 35 years, petitioner's son now confined at Central Prison, Cuddalore, before this Court and set him at liberty forthwith.

For Petitioner : Mr.S.Saravana Kumar
For Respondents : Mr.V.M.R.Rajentran,
Addl. Public Prosecutor.

O R D E R

(Order of the Court was made by RAJIV SHAKDHER, J)

1. This is a petition, which seeks to challenge the detention order dated 20.07.2017.

2. Qua the detenu, three (3) adverse cases have been noted. These being: Crime No.64 of 2010; Crime No.162 of 2014; and Crime No.163 of 2017. Insofar as the first case is concerned, the detenu has been booked under Sections 457 and 380 of the

IPC., while qua the second adverse case, the detenu has been booked under Sections 294(b), 323, 427 and 506(ii) of the IPC and Section 4 of T.N. Prevention of Women Harrsment Act. Insofar as the third case is concerned, the detenu has been booked under Sections 174(1) of the Cr.P.C @ 302 of the IPC.

3. Likewise, insofar as the subject case is concerned, it is registered as Crime No.166 of 2017.

3.1. The record shows that the detenu was arrested on 29.06.2017.

4. We have heard the learned counsel for the petitioner and the learned Additional Public Prosecutor and perused the records. According to us, the impugned order cannot be sustained for the following reasons:

(i) First, the detenu was arrested on 29.06.2017, while the impugned order was passed on 20.07.2017. The delay has not been explained by the State.

(ii) Second, a perusal of paragraph No.5 of the impugned order would show that even according to the Detaining Authority, the detenu has not moved for bail.

(iii) Third, though notice in the petition was issued as far back as on 12.09.2017, no counter affidavit has been filed. As a result, the averments made in the petition shall remain uncontroverted.

5. Therefore, for the foregoing reasons, as indicated above, we are inclined to quash the impugned order. It is directed accordingly.

6. In the result, the Habeas Corpus Petition is allowed and the order of detention in C3/D.O//44/2017 dated 20.07.2017, passed by the second respondent is set aside. The detenu, namely, Ramesh, S/o.Ganesan, male, aged about 35 years, is directed to be released forthwith unless his detention is required in connection with another case. Given the nature of the case, this order will be communicated to the concerned Jail Superintendent by the Registrar General of this Court via Fax.

Sd/-
Asst.Registrar (CS IX)

/true copy/

Sub Asst. Registrar

To

1.The Secretary to Government (Home),
Prohibition and Excise Department
Fort St. George,
Chennai - 600 009.

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

3.The Joint Secretary
Public (Law and order) Department,
Secretariat, Chennai 600 009.

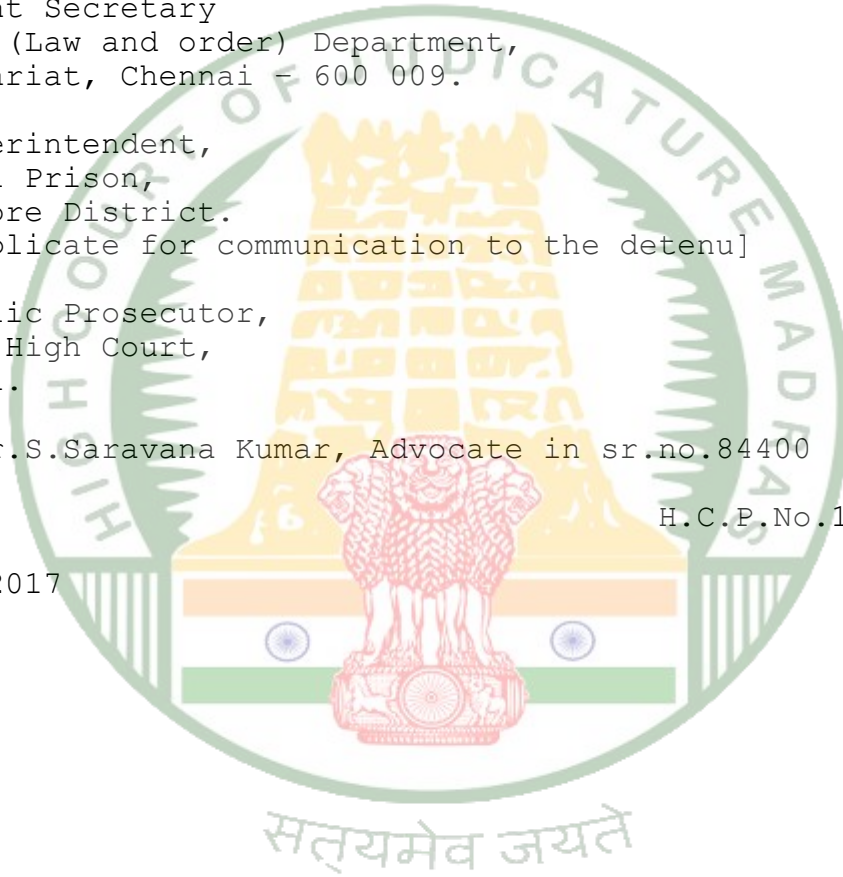
4.The Superintendent,
Central Prison,
Cuddalore District.
[In duplicate for communication to the detenu]

5.The Public Prosecutor,
Madras High Court,
Chennai.

+1cc to Mr.S.Saravana Kumar, Advocate in sr.no.84400

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NR 28/11/2017



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