

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.171 of 2017

Venkatachalapathy

.. Petitioner

Vs

1.The Secretary to Government
Home, Prohibition and Excise Department
Government of Tamil Nadu
Secretariat
Chennai - 9

2.The District Collector and District Magistrate,
Krishnagiri
Krishnagiri 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 in connection with the detention order dated 26.12.2016 in S.C.No.68 of 2016 of 2nd respondent and direct the respondents to produce the detenu, namely Gopal @ Gopi before this Court and set him at liberty and quash the same.

For Petitioner : Mr.K.Thiruvengadam

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.68 of 2016 dated 26.12.2016 by the Detaining Authority against the detenu by name, Gopal @ Gopi, aged 36 years, S/o.Venkatachalapathy, residing at D.No.3/36, Ennespuram, Periyapennangur Post, Denkanikottai Taluk, Krishnagiri District and quash the same.

2. The Inspector of Police, Mathigiri Police Station, as Sponsoring Authority, has submitted an affidavit to the Detaining Authority, wherein, it is averred to the effect that on 07.10.2016, one Kumaresan, Village Administrative Officer of Komaranappalli Village, Denkanikottai Taluk, as defacto complainant, has given a complaint, wherein it is stated that he found a dead body of female and consequently, a case has been registered in Crime No.442/2016 under Section 174 of the Code of Criminal Procedure, 1973. After making investigation, it was found that the present detenu and another have committed such murder and thereafter, section of law has been altered into Sections 302 and 201 of Indian Penal Code and ultimately, requested the Detaining Authority to invoke Act 14 of 1982 against the detenu.

3. The Detaining Authority, after considering the averments made in the affidavit, has derived a subjective satisfaction to the effect that the detenu has committed grave offence 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 father of the detenu, as petitioner.

4. Even though repeated adjournments have been granted 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 records.

5. Learned counsel appearing for the petitioner has contended to the effect that on the side of the detenu, two representations are submitted, but the same have not been disposed of without delay and therefore, the Detention Order in question is liable to be quashed.

6. Learned Additional Public Prosecutor has contended that the representations submitted on the side of the detenu are duly disposed of without delay and therefore, the contention urged on the side of the petitioner is liable to be rejected.

7. On the side of the respondents, a proforma has been submitted, wherein, it is clearly stated that in respect of first representation, in between column Nos.7 and 9, 49 clear working days are available and in between column Nos.12 and 13, 30 clear working days are available. Likewise in respect of second representation, in between column Nos.7 and 9, 42 clear working days are available and in between column Nos.12 and 13, 30 clear working days are available and no explanation has been given on the side of the respondents with regard to such huge 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.

8. In fine, this petition is allowed. The Detention Order dated 26.12.2016 passed in S.C.No.68 of 2016 by the Detaining Authority against the detenu by name, Gopal @ Gopi, aged 36 years, S/o.Venkatachalapathy, residing at D.No.3/36, Ennespuram, Periyapennangur Post, Denkanikottai Taluk, Krishnagiri 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 (CCC)

/true copy/

Sub Asst. Registrar

gpa

To

- 1.The Joint Secretary to Government of Tamil Nadu,
Public [Law and Order] Department,
Secretariat, Chennai-9.
2. The Secretary,
Government of Tamil Nadu, Home
Prohibition and Excise Department,
Fort St. George, Chennai-9.
- 3.The District Collector and District Magistrate,
Krishnagiri
Krishnagiri District
- 4.The Superintendent
Central Prison, Salem
- 5.The Public Prosecutor,
High Court, Madras.

msm(co)
ss(18/8/2017)

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