

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 31.08.2017

CORAM

THE HON'BLE Mr.JUSTICE A.SELVAM
and
THE HON'BLE Mr.JUSTICE N.AUTHINATHAN

H.C.P.No.184 of 2017

K.Pachiyammal .. Petitioner

Vs

1.State of Tamil Nadu
Rep. By The Secretary to Government
Prohibition & Excise Department
Fort St. George
Chennai - 600 009

2. The Commissioner of Police
Salem City, Salem
Salem 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 dated 04.01.2017 passed by the second respondent in C.M.P.No.2/Goonda/Salem City/2017 and quash the same and consequently direct the respondents herein to produce the detenu Anbumani @ Maan, son of late Mr.Kulandaivel, aged 29 years, now detained in Central Prison, Salem before this Court and set him at liberty.

For Petitioner : Mr.C.K.M.Appaji

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.M.P.No.2/Goonda/Salem City/2017 dated 04.01.2017 by the Detaining Authority against the detenu by name, Anbumani @ Maan, aged 29 years, S/o.Kulandaivel, residing at No.52, Poosari Street, Kumarasampatti, Hasthampatty, Salem-7 and quash the same.

2. The Inspector of Police, Hasthampatty 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 case:

i) Hasthampatty Police Station, Crime No.32 of 2014, registered under Sections 147, 148, 341, 324, 307 r/w. 506(ii) of Indian Penal Code, altered into Sections 147, 148, 341, 324, 307, 506(ii) and 302 of Indian Penal Code;

3. Further it is averred in the affidavit that on 25.12.2016, one Gopi, aged 31 years, S/o.Madhu, Driver, Tamil Nadu Transport Corporation, Erumapalyam Branch, as defacto complainant, has given a complaint, wherein it is alleged that in the place of occurrence, the detenu has pelted stones against the bus bearing Registration No.TN30-L-0417 and caused damages and consequently, a case has been registered in Crime No.510 of 2016 under Section 3(1) of Tamil Nadu (Prevention of Damage and Loss) Act, 1992 and also under Section 506(i) of 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 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 mother of the detenu, as petitioner.

5. On the side of the respondents, counter has not been filed. Under such circumstance, this Habeas Corpus Petition is disposed of on merits on the basis of available material on records.

6. Learned counsel appearing for the petitioner has contended to the effect that the detenu has been supplied with a booklet wherein at Page No.92, Section 506(i) of the Indian Penal Code is alone mentioned, Section 3(1) of Tamil Nadu (Prevention of Damage & Loss) Act, 1992 has not been mentioned. Further, the documents available at Page Nos.137, 151 and 152 are not readable and the same would affect the rights of the detenu and therefore, the Detention order in question is liable to be quashed.

7. Learned Additional Public Prosecutor has contended to the effect that all the documents available in the booklet are readable and therefore, the contention put forth on the side of the petitioner is liable to be rejected.

8. In fact, this Court has perused Page No.92 of the booklet. As rightly pointed out on the side of the petitioner, Section 506(i) of the Indian Penal Code alone is mentioned, whereas ground case has been registered under Section 3(1) of Tamil Nadu (Prevention of Damage and Loss) Act, 1992 along with Section 506(i) of Indian Penal Code. Further, the documents available in Page Nos.137, 151 and 152 are really not readable 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 04.01.2017 passed in C.M.P.No.2/Goonda/Salem City/2017 by the second respondent against the detenu by name, Anbumani @ Maan, aged 29 years, S/o.Kulandaivel, residing at No.52, Poosari Street, Kumarasampatti, Hasthampatti, Salem-7 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 to Government
Prohibition & Excise Department
Fort St. George
Chennai - 600 009
3. The Commissioner of Police
Salem City, Salem
Salem District
- 4.The Superintendent,
Central Prison, Salem
- 5.The Public Prosecutor,
High Court, Madras.

H.C.P.No.184 of 2017

ss(31/8/2017)