

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 07.07.2017

CORAM

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

H.C.P.No.206 of 2017

Gowri

.. Petitioner

Vs

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

2.The Detaining Authority,
The District Collector and District Magistrate,
Coimbatore District.

3.The Sponsoring Authority,
The Inspector of Police,
Mettupalayam Police Station,
Coimbatore 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 of the detaining authority, 2nd respondent herein made in Ref.Cr.M.P.No.1/G/2017/E1 dated 28.01.2017 detaining the detenu Vinu @ Vinoth, S/o.B.T.Rajan, age 25

years, under T.N.Act 14/1982 as a Goonda, at Central Prison, Coimbatore and set aside the same and set the detenu at liberty forthwith.

For Petitioner : Mr.P.Kalimuthu

For Respondents : Mr.V.M.R.Rajentren,
Additional Public Prosecutor

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 records relating to the detention order passed in Cr.M.P.No.1/G/2017/E1 dated 28.01.2017 by the Detaining Authority against the detenu by name, Vinu @ Vinoth, aged 25, S/o.B.T.Rajan, residing at door No.35/75D-1, Kerada, Niang Post, Kothagiri Taluk, Nilgiris District and quash the same.

2. The Inspector of Police, Mettupalayam 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. Kothagiri Police Station Crime No.109/2015 registered under Sections 170, 353 and 506[i] of Indian Penal Code.

3. Further it is averred in the affidavit that on 03.12.2016, one Mareeswarakannan, S/o.Krishnan, as de facto complainant has given a complaint in Mettupalayam Police Station against the detenu and others and the same has been registered in Crime No.718/2016 under Sections 120[b], 170, 171, 420, 395 r/w 397 of Indian Penal Code and ultimately, requested the Detaining Authority to invoke Act 14 of 1982 against the detenu.

4. The Detaining Authority after considering the averments made in the affidavit and other connected documents, has arrived a subjective satisfaction to the effect that the detenu is a professional 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 been filed, wherein, it has been contended that most of the averments made in the petition are false. The Sponsoring Authority has supplied all the materials to the Detaining Authority. The Detaining Authority after perusing all the records, has arrived to a subjective satisfaction to the effect that the detenu is a professional offender and ultimately, passed the impugned Detention Order and the same does not call for any interference and therefore, the present petition deserves

to be dismissed.

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

7. On the side of the respondents, a proforma has been submitted, wherein, it has been clearly stated that in respect of first representation, in between column Nos.7 and 9, nine clear working days are available and in between column Nos.12 and 13, two clear working days are available. Likewise, in respect of second representation, in between column Nos.7 and 9, six 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.

8. In fine, this petition is allowed. The Detention Order dated 28.01.2017 passed in Cr.M.P.No.1/G/2017/E1 by the Detaining Authority

against the detenu by name, Vinu @ Vinoth, aged 25, S/o.B.T.Rajan, residing at door No.35/75D-1, Kerada, Niang Post, Kothagiri Taluk, Nilgiris District and directed to set him at liberty forthwith, unless he is required to be incarcerated in any other case.

[A.S., J.] [P.K., J.]
07.07.2017

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To

1.The Secretary to the Government,
Home, Prohibition and Excise [XVI] Department,
Fort St. George, Secretariat,
Chennai-9.

2.The Detaining Authority,
The District Collector and District Magistrate,
Coimbatore District.

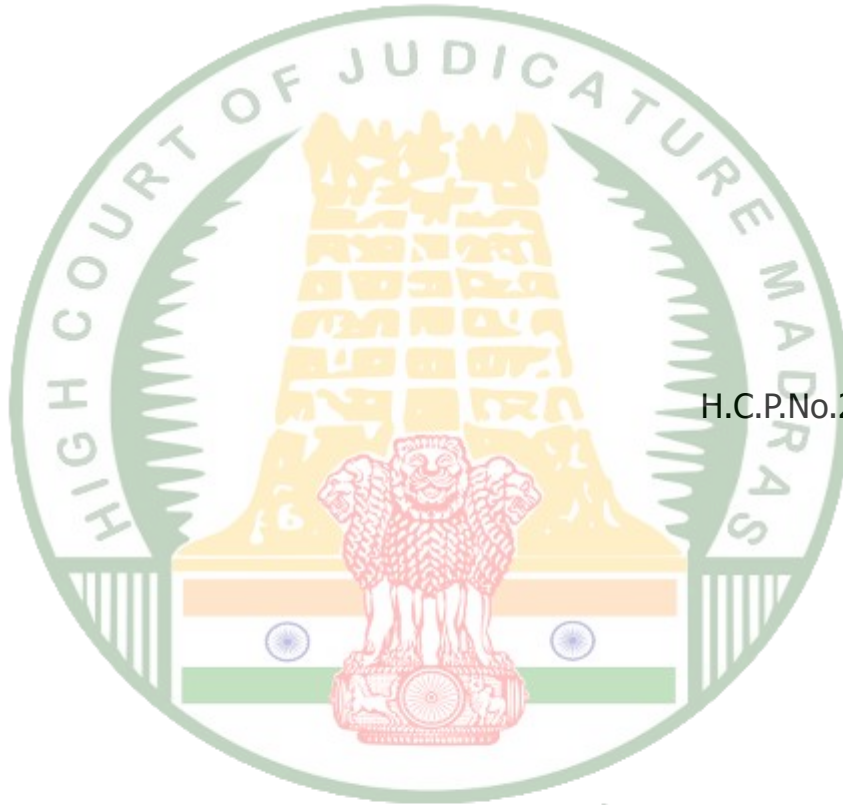
3.The Sponsoring Authority,
The Inspector of Police,
Mettupalayam Police Station,
Coimbatore District.

4.The Public Prosecutor,
High Court, Madras.

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A.SELVAM, J.
and
P.KALAIYARASAN, J.

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