

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:21.08.2017

CORAM:

THE HON'BLE MR.JUSTICE A.SELVAM
AND
THE HON'BLE MR.JUSTICE P.KALAIYARASAN

H.C.P.No.225 of 2017

V.Kalpana

.... Petitioner

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,
Chennai Police,
Office of Commissioner of Police(Goondas Section)
Vepery,
Chennai-600 007

... Respondents

Petition filed under Article 226 of the Constitution of India praying 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 Memo No.29/BCDFGISSSV/2017, dated 14.1.2017, and set aside the same and consequently direct the respondents to produce the detenu Sambandhan, aged about 58 years, petitioner's father, now confined at Central Prison, Puzshal-I, Chennai, before this Court and set him at liberty forthwith.

For Petitioner : Mr.S.Santhanam

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.29/BCDFGISSSV/2017, dated 14.01.2017, by the detaining

authority against the detenu, by name Sambandhan, aged 58 years, S/o Krishnan @ Stephen, residing at New No.1234, Old No.993, Maragatham Chandrasekar Nagar, Mugalivakkam, Chennai-125 and quash the same.

2. The Inspector of Police, Central Crime Branch, 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. Central Crime Branch Cr.No.219 of 2014, registered under Sections 465, 467, 468, 471 and 474 of the Indian Penal Code.
- ii. Central Crime Branch Cr.No.390 of 2015, registered under Sections 420, 447, 465, 467, 468, 471 r/w.120(B) and 506(ii) of the Indian Penal Code.

3. Further, it is averred in the affidavit that on 01.06.2015, one C.S.Ram, residing at New.No.18, Old No.65, III Main Road, Gandhi Nagar, Adyar, Chennai-20, as defacto complainant, has given a complaint against the detenu and others, wherein it is alleged to the effect that the detenu and others have created so many false records and consequently a case has been registered in Crime No.400 of 2015, under Sections 420, 465, 467, 468, 471 read with 120(b), 506(i), 447 read with Sec.511 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 daughter 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, a representation has been submitted, but the same has 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 to the effect that the representation submitted on the side of the detenu has been duly 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 between Column Nos.7 to 9, fifteen clear working days are available and in between Column Nos.12 and 13, four 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 14.01.2017, passed in No.29/BCDFGISSSV/2017, by the detaining authority against the detenu, by name Sambandhan, aged 58 years, S/o Krishnan @ Stephen, New No.1234, Old No.993, Maragatham Chandrasekar Nagar, Mugalivakkam, Chennai-125, 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/-
Deputy Registrar

/true copy/

Sub Asst. Registrar

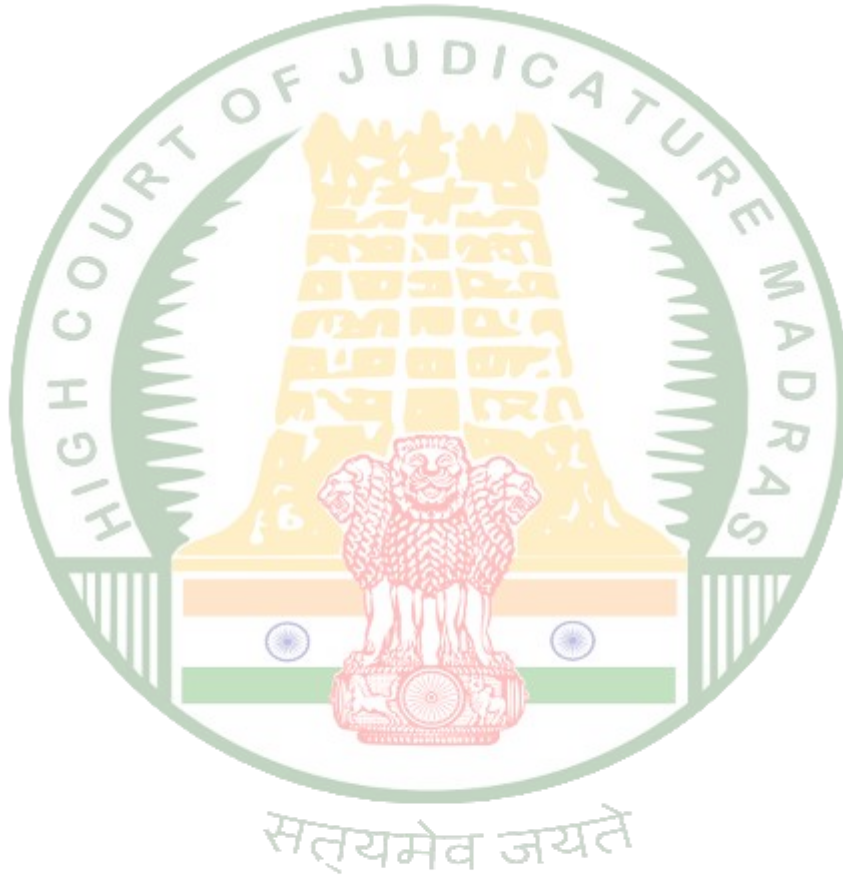
To

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, Chennai Police, Office of Commissioner of Police (Goondas Section) Vepery, Chennai-600 007

4. The Superintendent,
Central Prison,
Puzhal, Chennai.
5. The Public Prosecutor,
High Court, Madras

H.C.P.No.225 of 2017

NM(CO)
NR 21/08/2017



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