

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.248 of 2017

S.Magesh

.. Petitioner

Vs

1.The State of Tamil Nadu
Rep. By its Secretary to Government
Home, Prohibition and Excise Department
Secretariat, Chennai - 600 009

2. The District Collector and District Magistrate
Kancheepuram District
Kancheepuram

.. 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 petitioner's cousin brother detention under Tamil Nadu Act 14 of 1982 vide detention order dated 23.01.2017 on the file of the second respondent herein made in proceedings B.C.D.F.G.I.S.S.S.V No.04 of 2017 and quash the same as illegal and consequently direct the respondents herein to produce the said petitioner's cousin brother namely Sekar @ Ram, son of Kuppan, aged 32 years, now detained at Central Prison, Vellore, before this Court and set the petitioner's cousin brother at liberty from detention, सत्यमेव जयते

For Petitioner : Mr.C.C.Chellappan

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 BCDFGISSSV No.04 of 2017 dated 23.01.2017 by the Detaining Authority against the

detenu by name, Sekar @ Ram, aged 32 years, S/o.Kuppan, residing at Bajanaikoil Street, Chellaperumbulimedu Village, Chozhavaram Post, Vembakkam Taluk, Thiruvannamalai District and quash the same.

2. The Inspector of Police, Vishnu Kanchi Police Station, as Sponsoring Authority, has submitted an affidavit to the Detaining Authority, wherein, it is averred that the detenu has involved in the following adverse case:

i) Kanchi Taluk Police Station, Crime No.15/2016, registered under Sections 120-B, 147, 148, 109, 114, 449, 302, 506(ii) r/w.149 of Indian Penal Code.

3. Further it is averred in the affidavit that on 17.01.2017 at about 02.30pm, one Balaji, aged 42 years, S/o.Sundaramurthy, residing at No.10, Ilamal Nagar, Behind Collectorate, Kancheepuram, as defacto complainant, has given a complaint in Vishnu Kanchi Police Station, wherein it is stated that in the place of occurrence the detenu has attacked the defacto complainant with deadly weapon and also forcibly taken away a sum of Rs.1500/- and consequently, a case has been registered in Crime No.20 of 2017 under Sections 294(b), 392, 397, 506(ii) of Indian Penal Code r/w. Section 3(i) of Tamil Nadu Property (Prevention of Damage and Loss) Act, 1992 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 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 father of the detenu, as petitioner.

5. Despite repeated adjournments, on the side of the respondents, counter has not been filed and therefore, the present petition is disposed of on the basis of available materials on record.

6. 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.

7. 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.

8. 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, 4 clear working days are available and in between column Nos.12 and 13, 17 clear working days are available. Likewise in respect of second representation, in between column Nos.7 and 9, 4 clear working days are available and in between column Nos.12 and 13, 3 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.

9. In fine, this petition is allowed. The Detention Order dated 23.01.2017 passed in BCDFGISVV No.04 of 2017 by the Detaining Authority against the detenu by name, Sekar @ Ram, aged 32 years, S/o.Kuppan, residing at Bajanaikoil Street, Chellaperumbulimedu Village, Chozhavaram Post, Vembakkam Taluk, Thiruvannamalai District, is quashed and directed to set him at liberty forthwith, unless he is required to be incarcerated in any other case.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant 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
Home, Prohibition and Excise Department
Secretariat, Chennai - 600 009

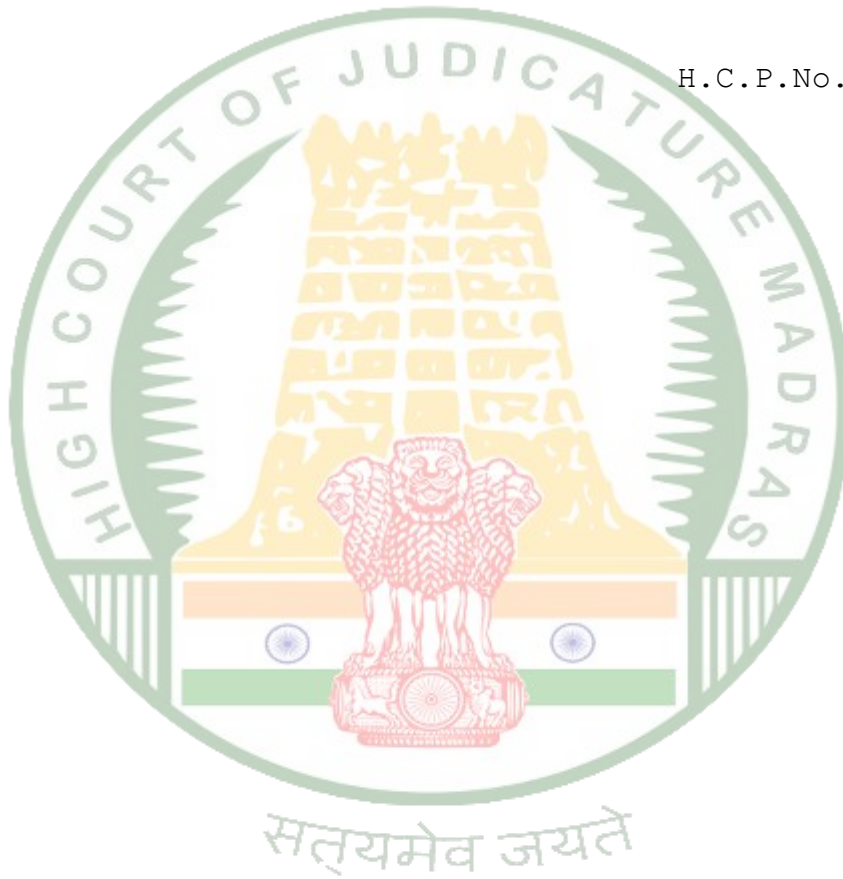
3. The District Collector and District Magistrate
Kancheepuram District
Kancheepuram

4.The Superintendent
Central Prison, Vellore

5.The Public Prosecutor,
High Court, Madras.

H.C.P.No.248 of 2017

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