

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 11.07.2017

CORAM

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

H.C.P.No.249 of 2017

Manjula Devi .. Petitioner

Vs

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

2.The District Collector
and District Magistrate
Coimbatore

... 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 order of Detention passed by the second respondent dated 14.12.2016 in C.M.P.No.41/G/2016/E1 against the petitioner's husband Kutti Thamban @ Thamburaj @ Murugan, Son of Aaran, aged 35 years, who is confined at Central Prison, Coimbatore and set aside the same and direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner : Mr.C.Veeraraghavan

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

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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 the records relating to the Detention Order passed in C.M.P.No.41/G/2016/E1 dated 14.12.2016, by the Detaining Authority against the detenu

by name, Kutti Thamban @ Thamburaj @ Murugan, aged 35 years, S/o. Aaran, residing at Door No.152, Nandhanar Colony, Palladam Road, Pollachi Taluk, Coimbatore District and quash the same.

2. The Inspector of Police, Mahalingapuram Police Station, as Sponsoring Authority, has submitted an affidavit to the Detaining Authority, wherein, it is averred that on 17.10.2016, one Senthilkumar, as Defacto complaint, has given a complaint against the detenu and the same has been registered in Crime No.189 of 2016 under Sections 341, 294(b), 302 and 506(ii) 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 and other connected materials, has derived a subjective satisfaction to the effect that the detenu has committed serious nature of offences and ultimately, branded him as goonda by way of passing the impugned Detention Order and in order to quash the same, the wife of the detenu, as petitioner, has filed the present petition.

4. On the side of the respondents, a counter has been filed, wherein, it is contended inter alia to the effect that the Detaining Authority, viz., the second respondent herein, after considering all the materials supplied to him, has rightly invoked Act 14 of 1982 against the detenu by way of passing the impugned Detention Order and the same does not call for any interference and altogether, the present petition deserves to be dismissed.

5. The learned counsel appearing for the petitioner has contended to the effect that on the side of the detenu, a representation has been given, but the same has not been disposed of without delay and therefore, the Detention Order in question is liable to be quashed.

6. Per contra, the learned Additional Public Prosecutor has contended that the representation submitted on the side of the detenu has been duly disposed of without delay and therefore, the Detention Order need not be quashed.

7. On the side of the respondents, a proforma has been submitted, wherein, it has been clearly stated that in between column Nos.7 and 9, 4 clear working days are available and no explanation has been given on the side of the respondents with regard to such delay and that the same would affect the rights of the detenu guaranteed under Article 22(5) of the Constitution of India.

8. In fine, this Habeas Corpus Petition is allowed and the

Detention Order dated 14.12.2016 passed in C.M.P.No.41/G/2016/E1 by the second respondent against the detenu by name, Kutti Thamban @ Thamburaj @ Murugan, aged 35 years, S/o. Aaran, residing at Door No.152, Nandhanar Colony, Palladam Road, Pollachi Taluk, Coimbatore 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 VII)

//True Copy//

Sub Assistant Registrar

gpa

To

- 1.The Secretary to the Government,
Home Prohibition and Excise Department,
Fort St. George
Chennai
- 2.The District Collector
and District Magistrate
Coimbatore.
- 3.The Superintendent,
Central Prison, Coimbatore.
- 4.The Joint Secretary to Government,
Public (Law & Order),
Fort St.George, Chennai-9.
- 5.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.C.Veeraghavan, Advocate SR.No.48163

H.C.P.No.249 of 2017

SK(CO)
GN(11/07/2017)