

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.08.2017

CORAM

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

H.C.P.No.277 of 2017

Sangeetha

... Petitioner

Vs

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

2.The District Magistrate and District Collector,
Salem District, Salem.

... Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS, to call for the records pertaining to the order of detention dated 07.02.2017 passed by the 2nd respondent in C.M.P.No.8/Goonda/C2/2017 quash the same and produce the detenu Dineshkumar, aged 29 years, S/o.Gandhi, before this Hon'ble Court and set him at liberty and the detenu is now confined in Central Prison, Salem.

For Petitioner : Mr.D.Mario Johnson

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.8/Goonda/C2/2017 dated 07.02.2017 by the Detaining Authority against the detenu by name, Dineshkumar, aged 29 years, S/o.Gandhi, residing at Nehru Colony, Koottathuppatty, Valappady Taluk, Salem District and quash the same.

2. The Inspector of Police, Karipatty 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 cases :

- i. Karipatty Police Station Crime No.292/2016 registered under Sections 302 @ 120[b], 147, 148 and 302 of IPC.
- ii. Karipatty Police Station Crime No.368/2016 registered under Sections 392 r/w 397 and 506[iii] of IPC.

3. Further, it is averred in the affidavit that on 01.12.2016, one Gopinath, Village Administrative Officer, Koottathupatty, Valappady Taluk, as de facto complainant has given a complaint, wherein it is averred to the effect that in the place of occurrence, the present detenu and others armed with deadly weapons have been making arrangements to commit crime and due to that, a case has been registered in Karipatty Police Station Crime No.370/2016 under Sections 399 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 arrived at 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 wife of the detenu as petitioner.

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

6. Learned counsel appearing for the petitioner has contended that on the side of the detenu, a representation has been given on 21.07.2017. But, the same has not been disposed of so far and therefore, the Detention Order in question is liable to be quashed.

7. Learned Additional Public Prosecutor has contended that the representation alleged to have been given on the side of the detenu has not been received by any one of the respondents and therefore, the contention urged on the side of the detenu is liable to be rejected.

8. It is seen from the records that on 22.07.2017, a representation has been given to the Secretary, Prohibition, State of Tamil Nadu and to that effect a receipt has also been annexed. Therefore, it is very clear that a representation has been given on 22.07.2017, but the same has not been disposed of. Since the representation given on the side of the detenu has not

been disposed of 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 07.02.2017 passed in C.M.P.No.8/Goonda/C2/2017 by the Detaining Authority against the detenu by name, Dineshkumar, aged 29 years, S/o.Gandhi 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 IV)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Joint Secretary to Government of Tamil Nadu,
Public [Law and Order] Department,
Secretariat, Chennai-9.
- 2.The Secretary to the Government,
Home, Prohibition and Excise Department,
Fort St. George, Chennai-9.
- 3.The District Magistrate and District Collector,
Salem District, Salem.
- 4.The Superintendent,
Central Prison, Salem.
[in duplicate for communication to the detenu]
- 5.The Public Prosecutor,
High Court, Madras.

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RSI(CO)
CA(23/08/2017)