

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.284 of 2017

Thilsath Begum ... Petitioner/Wife of the detenue

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 Commissioner of Police
Greater Chennai
Chennai

... Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS, to call for the records on the file of the second respondent in Detention Order No.BCDFGISSSV/30/2017 dated 14.01.2017 and direct the respondents to produce the detenu, namely Ahamed Ali, aged 38 years, S/o.Meerasa Marakkayar, now detained in Central Prison, Puzhal, Chennai - 66 before this Court and set aside the detention order.

For Petitioner : Mr.B.Premkumar

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 30/BCDFGISSSV/2017 dated 14.01.2017, by the Detaining Authority against the detenu by name, Ahamed Ali, S/o.Meerasa Marakkayar, residing at

No.13/23, Mariamman Koil Street, Murugaiyan Lay out, Villupuram-605 602 and quash the same.

2. The Inspector of Police, Anti Vice Squad-1, Greater Chennai, as Sponsoring Authority, has submitted an affidavit to the Detaining Authority, wherein, it is averred that the detenu has already involved in the following adverse cases:

- i) Anti Vice, Squad-1, Crime No.117 of 2016, registered under Sections 3(2) a, 4(1) and 5(1) a of ITP Act; and
- ii) Anti Vice, Squad-1, Crime No.146 of 2016, registered under Sections 3(2) a, 4(1) and 5(1) a of ITP Act.

3. Further, it is averred in the affidavit that on 28.12.2016, a Head Constable by name Saravana Kumar and others in Virugambakkam Area have watched prostitution and ultimately found that the detenu has indulged in that practice and consequently, a case has been registered in Crime No.147 of 2016, under Sections 3(2) a, 4(1), 5(1) a, 6(1) and 7(1) of ITP Act 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 materials, has derived a subjective satisfaction to the effect that the detenu is a habitual offender and ultimately, branded him as an Immoral Traffic Offender 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, a counter has been filed, wherein, it is averred to the effect that most of the averments made in the petition are false and the Detaining Authority, after considering all the materials supplied, has rightly derived a subjective satisfaction to the effect that the detenu is in the habit of committing immoral traffic offences one after another and ultimately, branded him as Immoral Traffic Offender by way of passing the impugned detention order and the same does not call for 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 given, 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 has contended that the representation submitted on the side of the detenu has been duly disposed of without delay and therefore, the present petition deserves to be dismissed.

8. 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, 17 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.

9. In fine, this Habeas Corpus Petition is allowed and the Detention Order dated 14.01.2017 passed in 30/BCDFGISSSV/2017 by the second respondent against the detenu by name, Ahamed Ali, S/o.Meerasa Marakkayar, residing at No.13/23, Mariamman Koil Street, Murugaiyan Lay out, Villupuram- 605 602 is quashed and directed to set him at liberty forthwith unless he is required to be incarcerated in any other case.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

gpa

To

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

H.C.P.No.284 of 2017

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