

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.08.2017

CORAM

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

H.C.P.No.297 of 2017

Murugan

... Petitioner

Vs

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

2. The Commissioner of Police
Greater Chennai
Chennai City Police
Chennai - 600 007

... Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS, to call for the entire records connected with the order of the 2nd respondent herein in BCDFGISSSV No.984 of 2016 dated 29.08.2016 against the detenu, Murugan, aged 38 years, S/o.Santhar, who is confined at Central Prison, Puzhal, Chennai, set aside the same and consequently direct the respondents to produce the body and person of the detenu before this Court and set him at liberty forthwith.

For Petitioner : Mr.A.Suresh Sakthi Murugan

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 the records relating to the detention order passed in BCDFGISSSV No.984 of

2016 dated 29.08.2016 by the Detaining Authority against the detenu by name, Murugan, aged 38 years, S/o.Santhar, residing at No.32, Kathankudi, Mangkottai Panchayat, Alagudi (Taluk), Pudukkottai District and quash the same.

2. The Inspector of Police, D6 Anna Square 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) D6 Anna Square Police Station, Crime No.498 of 2016, registered under Section 380 of Indian Penal Code;
- ii) D6 Anna Square Police Station, Crime No.499 of 2016, registered under Sections 380 and 511 of Indian Penal Code; and
- iii) D6, Anna Square Police Station, Crime No.503 of 2016, registered under Section 380 of Indian Penal Code.

3. Further it is averred in the affidavit that on 09.08.2016, one Rajasekaran, aged 28 years, S/o.Sivansait, residing at No.111, Retteri Nagar, 5th Street, Nadukuppam, Chennai - 5, as defacto complainant, has given a complaint in D6 Anna Square Police Station, wherein it is averred to the effect that the detenu has unlawfully detained him and also scolded him by using filthy words and further, the detenu has taken away a sum of Rs.200/- by showing a knife. Under such circumstances, a case has been registered in Crime No.504 of 2016 under Sections 341, 294(b), 323, 336, 397 and 506(ii) of Indian Penal Code 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 detenu himself, as petitioner.

5. Despite repeated adjournments, counter has not been filed on the side of the respondents. Under such circumstance, this petition is disposed of on merits on the basis of available records.

6. Learned counsel appearing for the petitioner has contended to the effect that in English version of the grounds of detention at Paragraph No.4, some criminal miscellaneous petition numbers have been given by way of stating that those criminal miscellaneous petitions are pending for getting bail, whereas no such particulars are found place in Tamil version and the same would affect the rights of the detenu to take further action.

7. Learned Additional Public Prosecutor has contended that in the English version of grounds of detention, at Paragraph No.4, Crl.MP.Nos.2504 of 2016 and 2509 of 2016 have been given, but erroneously the said particulars are not found place in the Tamil version and the same would not affect the rights of the detenu.

8.As rightly pointed out on the side of the petitioner, in English version Crl.MP.Nos.2504 of 2016 and 2509 of 2016 are given. But in Tamil version, those miscellaneous petitions and its numbers have not been furnished. Since in Tamil version those particulars are totally absent, the same would affect the rights of the detenu. On that ground alone, the Detention Order in question is liable to be quashed.

9. In fine, this petition is allowed. The Detention Order dated 29.08.2016 passed in BCDFGISSSV No.984 of 2016 by the Detaining Authority against the detenu by name, Murugan, aged 38 years, S/o.Santhar, residing at No.32, Kathankudi, Mangkottai Panchayat, Alagudi (Taluk), Pudukkottai 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 VIII)

//True Copy//

Sub Assistant Registrar

gpa

To

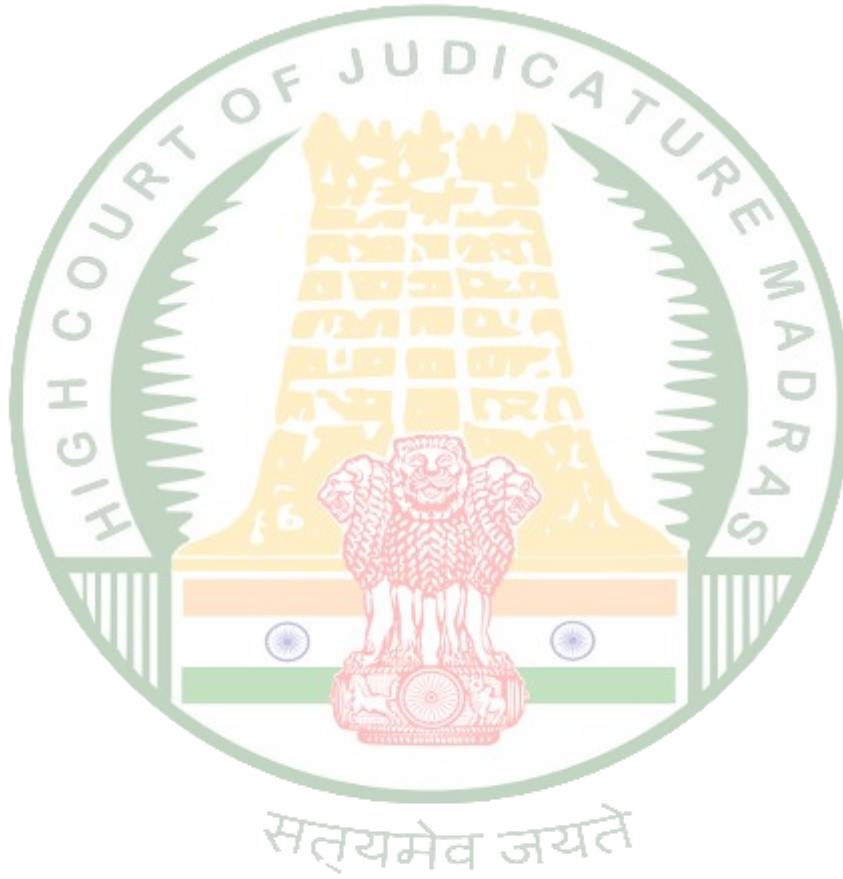
1. The Joint Secretary to Government of Tamil Nadu,
Public [Law and Order] Department,
Secretariat, Chennai-9.
2. The Secretary to Government,
Home, Prohibition and Excise (XVI) Department,
Fort St. George
Chennai-600 009
3. The Commissioner of Police
Greater Chennai
Chennai City Police
Chennai - 600 007

4. The Superintendent,
Central Prison, Puzhal
[in duplicate for communication to the detenu]

5. The Public Prosecutor,
High Court, Madras.

H.C.P.No.297 of 2017

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CA(10/08/2017)



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