

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.08.2017

CORAM

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

H.C.P.No.318 of 2017

Sella @ Selvamani

... Petitioner

Vs

1.State rep. by
The Secretary [Home],
Prohibition and Excise Department,
Secretariat, Fort St. George, Chennai-9.

2.The Commissioner of Police,
Salem City, Salem.

... 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 relating to the petitioner's detention under Act 14/1982 vide Detention Order dated 27.12.2016 on the file of the 2nd respondent herein made in proceedings CMP.No.100/Goonda/Salem City/2016 and quash the same as illegal and consequently direct the respondents herein to produce the petitioner Sella @ Selvamani, aged 24 years, S/o.Pandian @ Annamalai, before this Hon'ble Court and set the petitioner at liberty from detention confined at Central Prison, Salem.

For Petitioner : Mr.P.Ezhil Nilavan

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

WEB COPY
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 CMP.No.100/Goonda/Salem City/2016 dated 27.12.2016 by the Detaining Authority against the detenu by name, Sella @ Selvamani, aged 24 years, S/o.Pandian @ Annamalai, residing at Pappankattu Street, Mettupatty Thathanur, Salem and quash the same.

2. The Inspector of Police, Ammapet 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. Ammapet Police Station Crime No.2/2016 registered under Sections 147, 294[b], 323, 324 and 506[iii] of IPC and also under Section 3[1] of TNPPDL Act, 1992.
- ii. Veeranam Police Station Crime No.429/2016 registered under Sections 147, 148 and 302 of IPC @ 120[b], 364, 147, 148, 302 and 201 of IPC.

3. Further, it is averred in the affidavit that on 02.12.2016 at about 20.30 hours, one Arumugam, aged 33 years, S/o.Vaithilingam, as de facto complainant has given a complaint against the detenu, wherein, it is stated that in the place of occurrence, the detenu and another demanded a sum of Rs.2,000/- from the de facto complainant, the de facto complainant has refused. Subsequently, they created panic in the minds of the de facto complainant and other shop owners and at such circumstances, a case has been registered in Crime No.638/2016 under Sections 341, 387 and 506[iii] 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 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 detenu himself 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/detenu has contended to the effect that on the side of the detenu, a representation has been submitted to the concerned authorities and the same has 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 to the effect that the representation submitted on the side of the petitioner/detenu has been duly disposed of without delay and therefore, the contention put forth on the side of the detenu is liable to be rejected.

8. On the side of the respondents, a proforma has been submitted, wherein, it is clearly stated that in between column Nos.7 and 9, 5 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 a huge 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 27.12.2016 passed in CMP.No.100/Goonda/Salem City/2016 by the Detaining Authority against the detenu by name, Sella @ Selvamani, aged 24 years, S/o.Pandian @ Annamalai, 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 Government,
Government of Tamil Nadu,
Home, Prohibition and Excise Department,
Secretariat, Fort St. George, Chennai-9.
- 3.The Commissioner of Police,
Salem City, 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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KJ(CO)
CA(07/08/2017)