

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 11.09.2017

CORAM

THE HON'BLE Mr.JUSTICE A.SELVAM
and
THE HON'BLE Mr.JUSTICE S.BASKARAN

H.C.P.No.321 of 2017

Dinesh @ Dinesh Kumar .. Petitioner

Vs

1.The Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat, Fort St. George
Chennai- 600 009

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, call for the records relating to Detention under Act 14/1982 vide Detention Order dated 27.12.2016 on the file of the second respondent herein made in proceedings CMP No.98/Goonda/Salem City/2016 and quash the same as illegal and consequently direct the respondents herein to produce the petitioner Dinesh @ Dinesh Kumar, S/o.Ravi @ Ravikumar, M/A 25 years before this Court and set him at liberty.

For Petitioner : Mr.P.Ezhilnilavan

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.98/GOONDA/SALEM CITY/2016 dated 27.12.2016, against the

detenu by name, Dinesh @ Dineshkumar, aged 25 years, Son of Ravi @ Ravikumar, Perumal Kovil 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 case:

i) Veeranam Police Station, Crime No.429 of 2016, registered under Sections 147, 148, 302 of Indian Penal Code, altered into Section 120(B), 364, 147, 148, 302 and 201 of Indian Penal Code.

3. Further it is averred in the affidavit that on 02.12.2016 at about 20.30 hours one Arumugam, S/o.Vaithilingam, B-21, Jothi Theatre West Street, Ammapet, Salem, as defacto complainant, has given a complaint wherein it is alleged that in the place of occurrence, the detenu has unlawfully deterred the defacto complainant and demanded a sum of Rs.2000/-. The defacto complainant has refused to part with the same. Under such circumstance, he threatened him and consequently a case has been registered in Crime No.638 of 2016 under Sections 341, 387 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 perusing 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. On the side of the respondents, counter has not been filed. Under such circumstance, this petition is disposed of on merits on the basis of available materials on record.

6. Learned counsel appearing for the petitioner/detenu has contended to the effect that the detenu has been supplied with a booklet, but most of the pages are not readable and the same would affect the rights of the detenu and therefore, the Detention order in question is liable to be quashed.

7. Learned Additional Public Prosecutor has contended that all copies, which are available in the booklet are readable and therefore, the contention urged on the side of the petitioner is liable to be rejected.

8. In fine, this petition is allowed. The Detention Order dated 27.12.2016 passed in C.M.P.No.98/GOONDA/SALEM CITY/2016 by the Detaining Authority against the detenu by name, Dinesh @ Dineshkumar, aged 25 years, S/o.Ravi @ Ravikumar is quashed and

directed to set him at liberty forthwith unless he is required to be incarcerated in any other case.

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

gpa

To

1.The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George
Chennai- 600 009

2.The Commissioner of Police
Salem City

3.The Superintendent,
Central Prison, Salem
[in duplicate for communication to the detenul]

4.The Joint Secretary to Government of Tamil Nadu,
Public [Law and Order] Department,
Secretariat, Chennai-9.

5.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.P.Ezhil Niloran,Advocate sr.6574

सत्यमेव जयते

H.C.P.No.321 of 2017

rk(co)
ss(11/9/2017)

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