

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 17.08.2017

CORAM

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

H.C.P.No.331 of 2017

Baby Kumari

... Petitioner

Vs

1.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Fort St. George,
Chennai-9.

2.The District Collector cum District Magistrate,
Vellore,
Vellore District.

... Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS, to call for the records relating to the order of detention against the petitioner's husband in C3/D.O.No.03/2017 dated 08.01.2017 on the file of the 2nd respondent herein and quash the said order and to direct the respondents herein to produce the body of the petitioner's husband namely Jayakumar, aged 42 years, S/o.Vadivel @ Sipoy Kannan, now confined at Central Prison, Vellore before this Hon'ble Court and set him at liberty.

For Petitioner : Mr.K.Palaniswamy

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 C3/D.O.No.03/2017 dated 08.01.2017 by the Detaining Authority against the detenu

by name, Jayakumar, aged 42 years, S/o.Vadivel @ Sippai Kannan, residing at Sadhurangapalayam Village, Thippasamuthiram Post, Anaicut Taluk, Vellore District and quash the same.

2. The Inspector of Police, Pallikonda 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. Tiruvannamalai District Kalasapakkam Police Station Crime No.3/2014 registered under Section 394 of IPC @ 397 of IPC.

ii. Pallikonda Police Station Crime No.46/2015 registered under Sections 294[b], 392 and 506[ii] of IPC.

3. Further, it is averred in the affidavit that on 17.12.2016, one Vijayakumari, W/o.Vijayakumar, a resident of Sadhurangapalayam, as de facto complainant has given a complaint against the detenu, wherein, it is alleged that in the place of occurrence, the detenu has made attempt to outrage the modesty of the de facto complainant and also created panic in her minds. Under such circumstances, a case has been registered in Crime No.393/2016 under Sections 452, 354[A], 506[ii], 336 and 392 of Indian Penal Code r/w Section 4 of TNPHW Act, 1998 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. Under such circumstances, 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 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 detenu has been duly disposed of without delay and therefore, the contention urged 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 to 9, 10 clear working days are available and no explanation has been given on the side of the respondents with regard to such 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 08.01.2017 passed in C3/D.O.No.03/2017 by the Detaining Authority against the detenu by name, Jayakumar, aged 42 years, S/o.Vadivel @ Sipoy Kannan 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 VI)

//True Copy//

Sub Assistant Registrar

gya

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 Department,
Secretariat, Fort St. George,
Chennai-9.

3.The District Collector cum District Magistrate,
Vellore, Vellore District.

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

5.The Public Prosecutor,
High Court, Madras.

H.C.P.No.331 of 2017

arvi
aa17/08



WEB COPY