

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 28.08.2017

CORAM

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

H.C.P.No.338 of 2017

Siddi Hameeda Feroz

.. Petitioner

Vs

1.The State of Tamil Nadu
Rep. by Secretary to the Government
Home, Prohibition and Excise Department
Fort St. George
Chennai- 600 009

2.The Commissioner of Police/
Detaining Authority
Coimbatore City

3.The Inspector of Police
E-1, Singanallur Police Station
Coimbatore 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 Detention Order passed by the 2nd respondent in C.No.13/G/IS/2017 dated 06.02.2017 and to quash the same and direct the respondents to produce the person or body of the detenu, M.Jaffer Sherif, aged 32 years, Son of Mohammed Isaq, now detained at Central Prison, Coimbatore before this Court and set him at liberty.

For Petitioner : Mr.S.Parthasarathy

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 C.No.13/G/IS/2017 dated 06.02.2017, against the detenu by name, M.Jaffer Sherif,

aged 32 years, S/o.Mohammed Isaq, Door No.5/13, Mudukulathur Road, Abiramam Village, Ramanathapuram District and quash the same.

2. The Inspector of Police, E-1 Singanallur Police Station, as Sponsoring Authority, has submitted an affidavit to the Detaining Authority, wherein it is averred to the effect that on 05.10.2016 at about 18.15 hours, one Basheer, S/o.Sulaiman, residing at Door No.473-D, Kamarajar Road, Ramanujam Nagar, Coimbatore, as defacto complainant, has given a complaint in E-1 Singanallur Police Station, wherein it is alleged that on the same day at about 05.40 hours, 12 persons have entered into the house of the defacto complainant by way of claiming that they are the Income Tax Officers and two of them were in possession of pistols and ultimately they looted the house of the defacto complainant and taken away 150 sovereigns of gold jewels and cash of Rs.40 lakhs and ultimately, a case has been registered in Crime No.782 of 2016 under Sections 170, 419, 420 and 451 of Indian Penal Code and ultimately requested the Detaining Authority to invoke Act 14 of 1982 against the detenu.

3. 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 in the habit of committing grave offence 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.

4. On the side of the respondents, counter has not been filed and therefore, the present petition is disposed of on merits on the basis of available materials on record.

5. 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.

6. 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 contention put forth on the side of the petitioner is liable to be rejected.

7. 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, 5 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 and therefore, the Detention Order in question is liable to be quashed.

8. In fine, this Habeas Corpus Petition is allowed and the Detention Order dated 06.02.2017 passed in C.No.13/G/IS/2017 by the second respondent against the detenu by name, M.Jaffer Sherif, aged 32 years, S/o.Mohammed Isaq, Door No.5/13, Mudukulathur Road, Abiramam Village, Ramanathapuram District, 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 IV)

/true copy/

Sub Asst. Registrar

gpa

To

- 1.The Joint Secretary to Government of Tamil Nadu,
Public [Law and Order] Department,
Secretariat, Chennai-9.
 - 2.The Secretary to the Government
Home, Prohibition and Excise Department
Secretariat
Chennai- 600 009
 - 3.The Commissioner of Police/
Detaining Authority
Coimbatore City
 - 4.The Inspector of Police
E-1, Singanallur Police Station
Coimbatore District
 - 5.The Superintendent
Central Prison
Coimbatore
 - 6.The Public Prosecutor,
High Court, Madras.
- +1cc to Mr.S.Parthasarathy,Advocate sr.61465

H.C.P.No.338 of 2017

ss (29/8/2017)