

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 12.07.2017

CORAM

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

H.C.P.No.340 of 2017

A.Lakshmi

... Petitioner

Vs

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

2. The District Collector and District Magistrate
(Full Additional Charge)
Dharmapuri District
Dharmapuri

... 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 impugned order of Detention passed by the 2nd respondent in SC No.01/2017 dated 05.01.2017 and set aside the same and consequently direct the respondents to produce the detenu Arul, S/o.Thimmarayan, aged about 32 years, petitioner's husband, now confined at Central Prison, Salem before this Court and set him at liberty forthwith.

For Petitioner : Mr.S.Saravanakumar

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 S.C.No.01/2017 dated 05.01.2017, by the Detaining Authority against the detenu by

name, Arul, S/o.Thimmarayan, residing at D.No.2/230, Rakkiariyan Kottai Village, Vellalappatti Post, Dharmapuri District and quash the same.

2. The Inspector of Police, Dharmapuri Police Station, as Sponsoring Authority, has submitted an affidavit to the Detaining Authority, wherein, it is averred that the detenu has already involved in the following adverse cases:

- i) Dharmapuri Police Station, Crime No.800 of 2016, registered under Section 379 IPC;
- ii) Dharmapuri Police Station, Crime No.802 of 2016, registered under Section 379 IPC;
- iii) Dharmapuri Police Station, Crime No.804 of 2016, registered under Section 379 IPC;
- iv) Dharmapuri Police Station, Crime No.809 of 2016, registered under Section 379 IPC;
- v) Dharmapuri Police Station, Crime No.811 of 2016, registered under Section 379 IPC; and
- vi) Dharmapuri Police Station, Crime No.812 of 2016, registered under Section 379 IPC.

3. Further, it is averred in the affidavit that on 17.11.2016, one Viswanathan, S/o.Perumal, as defacto complainant, has given a complaint in Dharmapuri Police Station and the same has been registered in Crime No.817 of 2016 under Sections 392 r/w.397 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 materials, 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 wife of the detenu, as petitioner.

5. On the side of the respondents, a counter has been filed, wherein, it is contended inter alia to the effect that most of the averments made in the petition are false and the Sponsoring Authority has supplied all the materials to the Detaining Authority and the Detaining Authority, after considering all the materials, 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 the same does not call for any interference and therefore, the present petition deserves to be dismissed.

6. The learned counsel appearing for the petitioner has contended to the effect that on the side of the detenu, three representations have been given, but the same have not been disposed of without delay and therefore, the Detention Order in question is liable to be quashed.

7. Per contra, the learned Additional Public Prosecutor has contended that the representations submitted on the side of the detenu have been duly disposed of without delay and therefore, the relief sought for in the present petition cannot be granted.

8. On the side of the respondents, a proforma has been submitted, wherein, it has been clearly stated that in respect of first representation, in between column Nos.7 and 9, 13 clear working days and in between column Nos. 12 and 13, 3 clear working days are available. Likewise, in respect of second representation, in between column Nos.7 and 9, 13 clear working days and in between column Nos. 12 and 13, 3 clear working days are available and in respect of third representation, in between column Nos.7 and 9, 3 clear working days and in between column Nos. 12 and 13, 2 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.

9. In fine, this Habeas Corpus Petition is allowed and the Detention Order dated 05.01.2017 passed in S.C.No.01/2017 by the second respondent against the detenu by name, Arul, S/o.Thimmarayan, residing at D.No.2/230, Rakkiriyan Kottai Village, Vellalappatti Post, Dharmapuri 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 Secretary to the Government,
Home Prohibition and Excise Department,
Fort St. George
Chennai

2. The District Collector and District Magistrate
(Full Additional Charge)
Dharmapuri District
Dharmapuri

3. The Public Prosecutor,
High Court, Madras.

4. The Superintendent,
Central Prison, Salem.

5. The Joint Secretary to Government,
Public Law Order,
Fort St. George, Chennai-9

+1cc to M/S.S.Saravanakumar, Advocate Sr. 49556 (2707.2017)

H.C.P.No.340 of 2017

VSN(CO)
VR(12/07/2017)



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