

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.08.2017

CORAM

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

H.C.P.No.349 of 2017

V.Viji

... Petitioner

Vs

1.State of Tamil Nadu,
Rep. by its Secretary to Government,
Home, Prohibition, Excise Department,
Secretariat, Chennai-9.

2.The District Collector and The District Magistrate,
of Vellore District,
Vellore 632 009.

... 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 husband's detention under Tamil Nadu Act 14/1982 vide detention order dated 12.02.2017 on the file of the 2nd respondent herein made in proceedings C3.D.O.No.17/2017, quash the same as illegal and consequently direct the respondents herein to produce the detenu Veerappan, aged 49 years, S/o.Muruga Gounder, before this Hon'ble Court and set him at liberty from detention, who is now detained in Central Prison, Vellore.

For Petitioner : Mr.C.C.Chellappan

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.17/2017 dated 12.02.2017 by the Detaining Authority against the detenu by name, Veerappan, aged 49 years, S/o.Muruga Gounder, residing at Kannappa Gounder Street, Kilkothoor Village, Anaicut Taluk, Vellore District and quash the same.

2. The Inspector of Police, Veppankuppam 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. Vaniyambadi PEW Crime No.222/2016 registered under Sections 4[1]a, 4[1-A]ii of Tamil Nadu Prohibition Act, 1937 @ to under Sections 4[1]a of Tamil Nadu Prohibition Act, 1937.
- ii. Veppankuppam Police Station Crime No.209/2016 registered under Sections 4[1]aaa, 4[1-A]ii of Tamil Nadu Prohibition Act, 1937 @ to under Sections 4[1]aaa of Tamil Nadu Prohibition Act, 1937.
- iii. Veppankuppam Police Station Crime No.18/2017 registered under Sections 4[1]i, 4[1]aaa, 4[1-A]ii, 4[1]g of Tamil Nadu Prohibition Act, 1937 r/w Section 328 of Indian Penal Code.

3. Further, it is averred in the affidavit that on 26.01.2017, one Appasamy, Inspector of Police, Veppankuppam Police Station and other police officials have conducted prohibition raid and in the place of occurrence, they have found the detenu. The detenu is in possession of 140 litres of illicit arrack without having license and after observing due formalities, a case has been registered in Crime No.41/2017 under Sections 4[1][i], 4[1][aaa] and 4[1-A]ii of Tamil Nadu Prohibition Act, 1937 r/w Section 328 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 all the relevant records, has arrived at a subjective satisfaction to the effect that the detenu is a habitual offender and ultimately, branded him as bootlegger 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. Even though, this Habeas Corpus Petition has been posted today finally for filing counter, the respondents have not filed any counter. Under such circumstances, this petition is disposed of 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 given to the concerned authorities. But, the same has 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 representation submitted on the side of the petitioner has been duly disposed of without delay and therefore, the contention put forth on the side of the petitioner 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, 12 clear working days are available and no explanation has been given on the side of the respondents for 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 12.02.2017 passed in C3.D.O.No.17/2017 by the Detaining Authority against the detenu by name, Veerappan, aged 49 years, S/o.Muruga Gounder, 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 VIII)

//True Copy//

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Sub Assistant Registrar

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, Excise Department,
Secretariat, Chennai-9.
- 3.The District Collector and The District Magistrate,
Vellore District, Vellore.
- 4.The Superintendent,
Central Prison, Vellore.
[in duplicate for communication to the detenu]
- 5.The Public Prosecutor,
High Court, Madras.

CA(22/08/2017)

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