

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.350 of 2017

Jothi

.. 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 07.02.2017 on the file of the 2nd respondent herein made in proceedings C3.D.O.No.11/2017, quash the same as illegal and consequently direct the respondents herein to produce the detenu namely, Paranthaman, aged 45 years, S/o.Ellan, 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

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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 records relating to the detention order passed in C3.D.O.No.11/2017 dated 07.02.2017 by the Detaining Authority against the detenu by name, Paranthaman, aged 45 years, S/o.Ellan, residing at

Mariyamman Koil Street, Parsanapalli Village, Karumbur Post, Ambur Taluk, Vellore District and quash the same.

2. The Inspector of Police, Umarabad 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.306/2016 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.
- ii. Umarabad Police Station Crime No.374/2016 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. Vaniyambadi PEW Crime No.591/2016 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.

3. Further, it is averred in the affidavit that on 04.01.2017, the Inspector of Police, Umarabad Police Station and other police officials have conducted prohibition raid and consequently, in the place of occurrence, they found the detenu in possession of illicit arrack without having license and after observing due formalities, a case has been registered in Crime No.05/2017 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. Despite repeated adjournments, on the side of the respondents, counter has not been filed and therefore, this Habeas Corpus Petition is disposed of on merits on the basis of available materials.

6. Learned counsel appearing for the petitioner has contended to the effect that on the side of the detenu, two representations are submitted to the concerned authorities and the same have 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 that the representations submitted on the side of the detenu have been duly disposed of without delay and therefore, the contention urged 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 respect of 1st representation, in between column Nos.7 to 9, 17 clear working days are available and in respect of 2nd representation, 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 with regard to such huge 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 07.02.2017 passed in C3.D.O.No.11/2017 by the Detaining Authority against the detenu by name, Paranthaman, aged 45 years, S/o.Ellan, 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 VIII)

/true copy/

Sub Asst. Registrar

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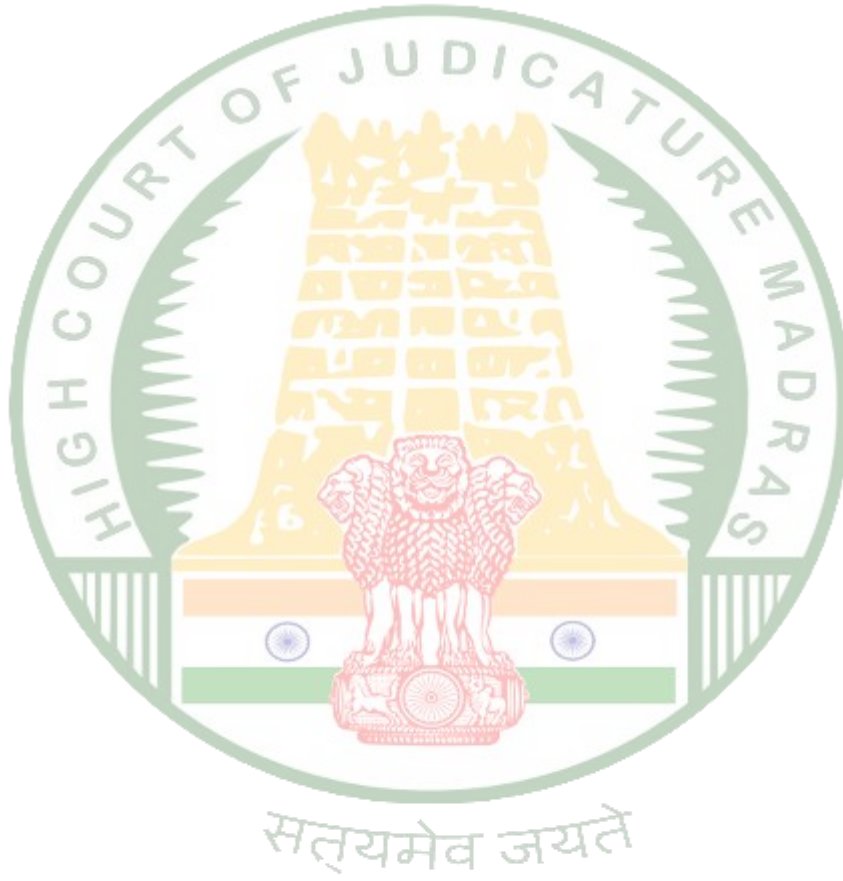
To

- 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.

H.C.P.No.350 of 2017

NR 23/08/2017



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