

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.05.2017

CORAM:

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH
and

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

Habeas Corpus Petition No.358 of 2017

K.Mary

.. Petitioner

Vs.

1. The State of Tamil Nadu,
Rep by its Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai 600 009.

2. The District Collector and District Magistrate,
Kancheepuram District.
Kancheepuram.

.. Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Habeas Corpus, calling for the records relating to the detention order passed by the second respondent dated 14.02.2017 in Memo No. BCDFGISSSV No.13/2017 against the petitioner's son Gopinath @ Gopi, S/o. Kannadasan, male, aged about 28 years, who is now confined at Central prison, Puzhal, Chennai and set aside the same and direct the respondents to produce him before this Court and set him at liberty.

For Petitioner : Mr.S.Swamidoss Manokaran

For Respondents : Mr.E.Raja,
Addl. Public Prosecutor

O R D E R

[Order of the Court was made by M.M.SUNDRESH, J.]

The petitioner, who is the mother of the detenu Gopinath @ Gopi, S/o. Kannadasan, male, aged about 28 years, has come forward with this Writ of Habeas Corpus Petition seeking to quash the detention order in Memo No. BCDFGISSSV No.13/2017

passed by the second respondent, dated 14.02.2017, against her son branding him as a "Goonda" under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Slum Grabbers and Video Pirates Act, 1982 [Tamil Nadu Act 14 of 1982].

2.The learned counsel for the petitioner submitted that the first bail application filed on behalf of the detenu was dismissed on 07.02.2017 and the second bail application was filed on 09.02.2017. The detaining authority while coming to the subjective conclusion, made reliance upon the order granted in Cr.No.727 of 2013 in CrI.M.P.No.94 of 2014 dated 22.01.2014. The said order has been passed, in view of the completion of 90 days in remand of the accused therein, as no charge sheet has been filed, within the time prescribed. Thus, according to the learned counsel for the petitioner, the impugned detention order is not passed on merits and accordingly, the same is liable to be quashed.

3.We find considerable force in the submissions made by the learned counsel for the petitioner.

4.As rightly submitted by the learned counsel for the petitioner, the order passed in respect of Cr.No.727 of 2013 in CrI.M.P.No.94 of 2014 dated 22.01.2014 cannot be relied upon by the detaining authority while passing the impugned detention order, as the same has not been passed on merits and the same is passed on the default committed by the respondent therein in non filing of the charge sheet within the stipulated period. In the light of the above facts and law, we have no hesitation in quashing the order of detention on the above mentioned ground.

5.Accordingly, the Habeas Corpus Petition is allowed and the detention order dated 14.02.2017, passed by the second respondent, is quashed. The detenu is directed to be set at liberty, forthwith, unless his presence is required in connection with any other case.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

cla/sts

To

1. The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai 600 009.
2. The District Collector and District Magistrate,
Kancheepuram District.
Kancheepuram.
3. The Superintendent, Central Prison,
Puzhal, Chennai.
4. The Joint Secretary to Government,
Public (L & O), Fort Saint George,
Chennai-9.
5. The Public Prosecutor,
High Court of Madras.

SKS (CO)
VR(19/06/2017)

Order in
H.C.P.No.358 of 2017



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