

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 02.08.2017

CORAM

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

H.C.P.No.372 of 2017

Jayanthi

.. Petitioner

Vs

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

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

.. 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 dated 22.12.2016 passed by the second respondent in No.C2/30830/2016 and quash the same and consequently direct the respondents herein to produce the petitioner's husband namely Selvam, Son of Desingu, male aged 31 years, residing at Ayyanagar Koil Street, Thelimedu Village, Villupuram Taluk and District, who is presently undergoing detention in Central Prison, Cuddalore, under Section 3(1) of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Slum Grabbers and Video Priates Act, 1982, (Tamil Nadu Act 14 of 1982) before this Court and set him at liberty forthwith.

For Petitioner : Mr.S.Viswagandhi

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 No.C2/30830/2016 dated 22.12.2016 by the Detaining Authority against the detenu by name, Selvam, aged 31 years, Son of Desingu, residing at Ayyanar Koil Street, Thelimedu Village, Villupuram Taluk and District and quash the same.

2. The Inspector of Police, Villupuram West Police Circle, as Sponsoring Authority, has submitted an affidavit to the Detaining Authority, wherein, it is averred that on 15.11.2016 in and around Thelimedu Village, Inspector of Police and other police officials, have watched vending of illicit liquor. At that time, they found that the detenu is in possession of illicit poisonous arrack and also selling the same to some persons and after observing due formalities, a case has been registered in Crime No.285 of 2016 under Sections 4(1)(i), 4(1)(aaa) and 4(1-A) of Tamil Nadu Prohibition Act and ultimately requested the Detaining Authority to invoke Act 14 of 1982 against the detenu.

3. The Detaining Authority, after considering the averments made in the affidavit, has derived a subjective satisfaction to the effect that the detenu has sold poisonous arrack in the place of occurrence 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.

4. On the side of the respondents, a detailed counter has been filed, wherein, it has been contended inter alia to the effect that most of the averments made in the petition are false. The Sponsoring Authority has submitted all the materials to the Detaining Authority. The Detaining Authority, after considering all the relevant materials and other connected papers, has derived a subjective satisfaction to the effect that in the place of occurrence, the detenu has sold illicit poisonous arrack and ultimately, branded him as "Bootlegger" by way of passing the impugned Detention Order and therefore, the present petition deserves to be dismissed.

5. Learned counsel appearing for the petitioner has contended to the effect that on the side of the detenu, a representation has been submitted, but, the same has not been disposed of without delay and therefore, the Detention Order in question is liable to be quashed.

6. Learned Additional Public Prosecutor has contended that the representation submitted on the side of the detenu has been 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, nine clear working days are available and in between column Nos.12 and 13, three clear working days are available and no explanation has been given on the side of the respondents with regard to 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.

8. In fine, this petition is allowed. The Detention Order dated 22.12.2016 passed in No.C2/30830/2016 by the Detaining Authority against the detenu by name, Selvam, aged 31 years, S/o.Desingu, residing at Ayyanar Koil Street, Thelimedu Village, Villupuram Taluk and District 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 IV)

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

gpa

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 and Excise Department,
Secretariat, Chennai-9.

3.The District Collector and District Magistrate,
Villupuram District
Villupuram

4.The Superintendent,
Central Prison, Cuddalore
[in duplicate for communication to the detenu]

5.The Public Prosecutor,
High Court, Madras.

+1 cc to Mr.S.Viswagandhi Advocate sr 55201

H.C.P.No.372 of 2017

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