

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.08.2017

CORAM:

THE HON'BLE MR.JUSTICE A.SELVAM
AND
THE HON'BLE MR.JUSTICE P.KALAIYARASAN

H.C.P.No.377 of 2017

M.Raman

... Petitioner

Vs.

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

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

... 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 in C.M.P.No.53/Goonda/C2/2016, dated 31.12.2016, on the file of the second respondent and quash the same and direct the respondents to produce the corpus of the detenue Gayathiri, w/o.Krishnamoorthy, residing at Periyar Nagar, Behind Government Girls Higher Secondary School, Harur, Harur Taluk, Dharmapuri District (now detained at Special Sub Jail for Women, Coimbatore) before this Court and set her at liberty.

For Petitioner : Mr.S.Kumara Devan

For Respondents : Mr.V.M.R.Rajentren,
Additional Public Prosecutor

ORDER

(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 detention order, passed in C.M.P.No.53/Goonda/C2/2016, dated 31.12.2016, by the detaining authority, who has been arrayed as the second respondent herein, against the detenue, by name Gayathiri, aged 36 years, wife of Krishnamoorthy, residing at Periyar Nagar, Backside of Girls Higher Secondary School, Harur, Harur Taluk, Dharmapuri District and quash the same.

2. The Inspector of Police, Attur Police Station, as sponsoring authority, has submitted an affidavit to the detaining authority, wherein it is averred to the effect that on 22.07.2016, one Rajkumarr, son of Thiyagarajan, residing at Alagapuram, Salem, as defacto complainant, has given a complaint, wherein it is stated to the effect that the present detenu and another have very often contacted the defacto complainant over cell-phone and subsequently, they abducted him for getting ransom and thereafter, unlawfully detained him. On the basis of allegations made in the complaint, a case has been registered in Crime No.401 of 2016, under Sections 364(A) and 343 of the Indian Penal Code and ultimately, requested the detaining authority to invoke Act 14 of 1982 against the detenu.

3.The detaining authority, after perusing the gravity of offences alleged to have been committed by the detenu, has derived subjective satisfaction to the effect that the detenu has committed grave offence and ultimately branded her as a 'Goonda' by way of passing the impugned detention order and in order to quash the same, the present petition has been filed by the brother of the detenu, as petitioner.

4.Inspite of repeated adjournments, the respondents have not filed any counter. Under such circumstances, the present habeas corpus petition is disposed of on merits on the basis of available records.

5.The 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.The learned Additional Public Prosecutor appearing for the respondents has also equally contended to the effect that the representation submitted on the side of the detenu has been duly disposed of without delay and therefore the contention urged 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 stated in between Column Nos.7 to 9, twenty seven clear working days are available and in between Column Nos.12 and 13, four 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.

In fine, this Habeas Corpus Petition is allowed. The detention order dated 31.12.2016 passed in C.M.P.No.53/Goonda/C27/2016 by the detaining authority against the detenu, by name Gayathiri, wife of Krishnamoorthy, aged 36 years, residing at Periyar Nagar, Backside of Girls Higher Secondary School, Harur,

Harur Taluk, Dharmapuri District, is quashed and the respondents are directed to set her at liberty forthwith, unless she is required to be incarcerated in connection with some other case.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

msk

To

1. The Joint Secretary to Government of Tamil Nadu, Public (Law and Order) Department, Secretariat, Chennai-9.
2. The Secretary to the Government, Home Prohibition and Excise Department, Secretariat, Chennai-600 009
3. The District Collector and District Magistrate, Salem District, Salem.
4. The Superintendent of Prisons, Special Prison for Women, Coimbatore.
5. The Public Prosecutor, High Court, Madras.

+1cc to Mr.S.Kumara Devan, Advocate, S.R.No.58232

H.C.P.No.377 of 2017

CP(CO)
CA(11/08/2017)

WEB COPY