

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 13.07.2017

CORAM

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

H.C.P.No.378 of 2017

M.Krishnaveni

.. Petitioner

Vs

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

2.The District Collector and District Magistrate,
Erode District,
Erode 638 011.

.. Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS, to produce the body of the detenu by name Chandiran @ Chandrasekaran, S/o.Muthusamy, aged 30 years, presently confined at Central Prison, Coimbatore, before this Hon'ble Court and set him at liberty forthwith, after calling for the records pertaining to the detention order dated 28.01.2017 in Cr.M.P.No.02/Goondas/2017/C1 passed by the 2nd respondent, quash the same.

For Petitioner : Mr.N.Manokaran

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

Cr.M.P.No.02/Goondas/2017/C1 dated 28.01.2017 by the Detaining Authority against the detenu by name, Chandiran alias Chandrasekaran, aged 30 years, S/o.Muthusamy, residing at No.61, Meenakshi Kalyana Mandapam Street, Varnapuram, Bhavani, Bhavani Taluk, Erode District and quash the same.

2. The Inspector of Police, Bhavani Police Station as Sponsoring Authority has submitted an affidavit to the Detaining Authority, wherein, it is averred to the effect that on 20.12.2016 at about 19.30 hrs, on information from the Government Hospital, Bhavani, Sub Inspector of Police, Bhavani Police Station went there and it is learnt that the then deceased by name, Chandiran alias Chandrasekaran has been referred to the Government Hospital, Erode and a statement has been recorded from one Kannan and the same has been registered in Crime No.702/2016 under Sections 302 and 506[ii] of Indian Penal Code and ultimately, requested the Detaining Authority to invoke Act 14 of 1982 against the detenu.

3. The Detaining Authority after considering the gravity of offence alleged to have been committed by the detenu, has branded him as goonda, by way of passing the impugned Detention Order and in order to quash the same, the present petition has been filed by the mother of the detenu as petitioner.

4. On the side of the respondents, a counter has been filed, wherein, it is averred 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 the gravity of offence alleged to have been committed by the detenu, has rightly branded him as goonda, by way of passing the impugned Detention Order and the same need not be quashed 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 given to the concerned authorities. But, the same has not been considered 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 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 clearly stated that in between column Nos.7 and 9, 9 clear working days are available. Likewise, in between column Nos.12 and 13, 38 clear

working days are available and no explanation has been given on the side of the respondents, with regard to such a 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.

8. In fine, this petition is allowed. The Detention Order dated 28.01.2017 passed in Cr.M.P.No.02/Goondas/2017/C1 by the Detaining Authority against the detenu by name, Chandiran alias Chandrasekaran, aged 30 years, S/o.Muthusamy, residing at No.61, Meenakshi Kalyana Mandapam Street, Varnapuram, Bhavani, Bhavani Taluk, Erode District is quashed and directed to set him at liberty forthwith, unless he is required to be incarcerated in any other case.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

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To

1.The Secretary to Government,
Government of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai-9.

2.The District Collector and District Magistrate,
Erode District,
Erode 638 011.

3.The Public Prosecutor,
High Court, Madras.

4.The Superintendent, Central Prison,
Coimbatore(In duplicate for communication
to Detenue)

5.The Joint Secretary to Government,
Public (Law & Order)
Fort St. George, Ch-9.

H.C.P.No.378 of 2017

rk(co)
ss(13/7/2017)