

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 21.08.2017

CORAM

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

H.C.P.No.408 of 2017

A.Amudha

.. Petitioner

Vs

1.The Secretary to the Government
Government of Tamil Nadu (Home)
Prohibition and Excise Department
Fort. St.George, Chennai - 600 009

2. The District Collector and District Magistrate
Dharmapuri District
Dharmapuri

.. Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS, to call for the records of the detention made in S.C.No.09/2017 dated 27.02.2017 on the file of the 2nd respondent herein and set aside the same and direct the respondent to produce the detenu Venkatesh, S/o.Annadurai, aged 29 years, detained in the Central Prison, Salem before this Court and set him at liberty.

For Petitioner : Mr.E.C.Ramesh

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 the records relating to the detention order passed in S.C.No.09/2017 dated 27.02.2017 by the Detaining Authority against the detenu by name, Venkatesh, aged 29 years, S/o.Annadurai, residing at Door No.144/51, Arunachalam Street, Shevapettai, Salem, Salem District and quash the same.

2. The Inspector of Police, Adhiyamankottai 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) Dharmapuri Police Station, Crime No.83 of 2017, registered under Section 379 of Indian Penal Code;
- ii) Dharmapuri Police Station, Crime No.84 of 2017, registered under Section 379 of Indian Penal Code;
- iii) Dharmapuri Police Station, Crime No.87 of 2017, registered under Section 379 of Indian Penal Code; and
- iv) Dharmapuri Police Station, Crime No.88 of 2017, registered under Section 379 of Indian Penal Code;

3. Further it is averred in the affidavit that on 22.01.2017 at about 12 Noon, one Kalaimani, S/o.Chinnasamy, residing at Thengamarathuppatti Village, A.Jettihalli Post, Nallampalli Taluk, Dharmapuri District, as defacto complainant, has given a complaint to the Sub-Inspector of Police, Adhiyamankottai Police Station, wherein it is alleged to the effect that in the place of occurrence, by showing a deadly weapon, the detenu has taken away a sum of Rs.350/- from the shirt pocket of the defacto complainant. Under such circumstance, a case has been registered in Crime No.34 of 2017 under Sections 392 r/w. 397 of Indian Penal Code and ultimately requested the Detaining Authority to invoke Act 14 of 1982 against the detenu.

4. The Detaining Authority, after considering the averments made in the affidavit and other connected papers, has derived a subjective satisfaction to the effect that the detenu is a habitual offender and ultimately, 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.

5. On the side of the respondents, counter has not been filed. Under such circumstance, this petition is disposed of on merits on the basis of available materials on record.

6. Learned counsel appearing for the petitioner has contended to the effect that the detenu has been supplied with a booklet, wherein most of the pages are illegible and the same would affect the rights of the detenu and therefore, the Detention order in question is liable to be quashed.

7. Learned Additional Public Prosecutor has contended that the detenu has been served with a booklet, wherein legible copies of vital documents are available and therefore, the contention urged on the side of the petitioner is liable to be rejected.

8. In fact, this Court has perused the entire booklet wherein, at Page No.105, a copy of Form 95 is available and the same is really illegible. Likewise at Page Nos.117, 121 and 122, copies of many vital documents are available and the same are not readable. As rightly pointed out on the side of the petitioner, 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 27.02.2017 passed in S.C.No.09/2017 by the second respondent against the detenu by name, Venkatesh, aged 29 years, s/o.Annadurai, residing at Door No.144/51, Arunachalam Street, Shevapettai, Salem, Salem 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 (CS II)

/true copy/

Sub Asst. Registrar

gpa

To

1. The Joint Secretary to Government of Tamil Nadu,
Public [Law and Order] Department,
Secretariat, Chennai-9.
2. The Secretary to the Government
Government of Tamil Nadu (Home)
Prohibition and Excise Department
Fort. St.George, Chennai - 600 009
3. The District Collector and District Magistrate
Dharmapuri District
Dharmapuri
4. The Superintendent of Central Prison
Salem
5. The Public Prosecutor,
High Court, Madras.

H.C.P.No.408 of 2017

GP(CO)
NR 21/08/2017