

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.410 of 2017

S.Perumayee

.. Petitioner

Vs

1.State of Tamil Nadu
Rep. By The Secretary to Government
Prohibition & Excise Department
Fort St. George
Chennai - 600 009

2.The District Magistrate and
District Collector
Salem District

.. Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS, to call for the entire records, relating to the Detention Order passed by the second respondent in C.M.P.No.2/C2/2017 dated 03.02.2017, set aside the same and direct the respondents to produce the detenu Senthil K @ Senthil Kumar, aged 34 years, S/o. Palaniappan before this Court and set him at liberty.

For Petitioner : Mr.C.K.M.Appaji

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

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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 C.M.P.No.2/GOONDA/C2/2017 dated 05.01.2017, against the detenu by name, Senthil @ Senthilkumar, aged 34 years, S/o.Palaniappan,

residing at Annavathiyarkadu, Erumapalayam, Kalarampatty, Salem Taluk, Salem District and quash the same.

2. The Inspector of Police, Yethapur Police Station, as Sponsoring Authority, has submitted an affidavit to the Detaining Authority, wherein, it is averred that the detenu has involved in the following adverse cases:-

- i) Kichipalayam Police Station, Crime No.267 of 2013, registered under Sections 454 and 380 of Indian Penal Code;
- ii) Tiruchengode Town Police Station, Crime No.12 of 2015, registered under Section 387 of Indian Penal Code;
- iii) Thevoor Police Station, Crime No.69 of 2015, registered under Section 454 and 380 of Indian Penal Code; and
- iv) Tiruchengode Rural Police Station, Crime No.460 of 2015, registered under Sections 454 and 380 of Indian Penal Code.

3. Further, it is averred in the affidavit that on 05.11.2016 at about 12.30 hours, one Surbamani, aged 44 years, S/o.Kannan, residing at 3rd Ward, Puthiragoundampalaym, Pethanaickenpalayam Circle, as defacto complainant, has given a complaint in Yethapur Police station, wherein it is alleged that in the place of occurrence by using a deadly weapon, the detenu has forcibly taken a sum of Rs.500/- from the custody of the defacto complainant and consequently, a case has been registered in Crime No.447 of 2016, 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 perusing the averments made in the affidavit and other connected documents, 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 wife of the detenu, as petitioner.

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

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

7. Per contra, the 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 put forth on the side of the petitioner is liable to be rejected.

8. 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, 40 clear working days are available and in between column Nos.12 and 13, 30 clear working days are available and no explanation has been given on the side of the respondents with regard to such huge delay and that 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 Habeas Corpus Petition is allowed and the Detention Order dated 05.01.2017 passed in C.M.P.No.2/GOONDA/C2/2017 by the second respondent against the detenu by name, Senthil @ Senthilkumar, aged 34 years, S/o.Palaniappan, residing at Annavathiyarkadu, Erumapalayam, Kalarampatty, Salem Taluk, Salem District is quashed and directed to set him at liberty forthwith unless he is required to be incarcerated in any other case.

Sd/-
Deputy Registrar

/true copy/

Sub Asst. Registrar

gpa

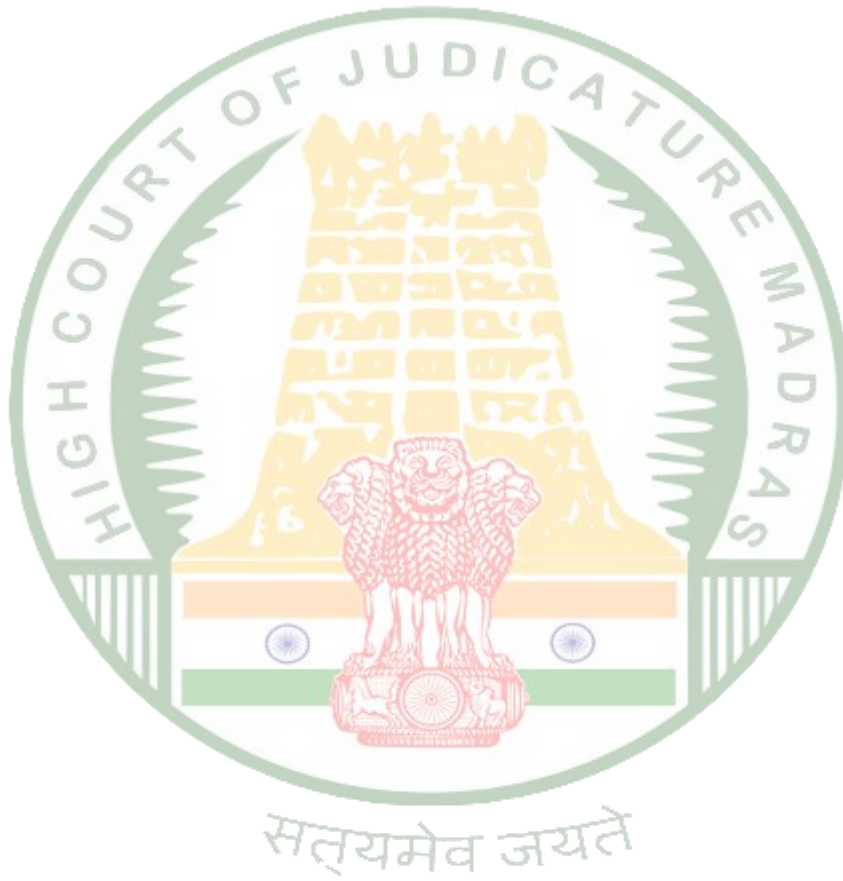
To

1. The Joint Secretary to Government of Tamil Nadu,
Public [Law and Order] Department,
Secretariat, Chennai-9.
2. The Secretary to Government
Prohibition & Excise Department
Fort St. George
Chennai - 600 009
3. The District Magistrate and
District Collector
Salem District
4. The Superintendent
Central Prison
Salem

5.The Public Prosecutor,
High Court, Madras.

H.C.P.No.410 of 2017

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NR 21/08/2017



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