

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 30.08.2017

CORAM

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

H.C.P.No.421 of 2017

Nagamani

.. Petitioner

Vs

1.State of Tamil Nadu

Rep. by its Secretary to the Government
Home, Prohibition and Excise Department
Secretariat
Chennai- 600 009

2.The Commissioner of Police

Greater Chennai Police
Vepery, Chennai - 600 007

.. 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 petitioner's detention under Tamil Nadu Act 14 of 1982 vide detention order dated 13.02.2017 on the file of the second respondent herein made in proceedings in BCDFGISSSV No.55 of 2017 and quash the same as illegal and consequently direct the respondents herein to produce the said petitioner, namely Nagamani, son of Solai aged 40 years, now detained in Central Prison-II, Puzhal, Chennai - 600 066 before this Court and set the petitioner at liberty from detention.

For Petitioner : Mr.C.C.Chellappan

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 Memo

No.55/BCDFGISSSV/2017 dated 13.02.2017, against the detenu by name, Nagamani, aged 40 years, S/o.Solai, Pillaiyar Koil Street, N.R.Pettai, Ginjee, Villupuram Road, Villupuram District and quash the same.

2. The Inspector of Police, Vadapalani 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) R-8 Vadapalani Police Station, Crime No.11 of 2017, registered under Sections 457 and 380 of Indian Penal Code;

ii) R-5 Virugambakkam Police Station, Crime No.28 of 2017, registered under Section 380 of Indian Penal Code; and

iii) R-8 Vadapalani Police Station, Crime No.47 of 2017, registered under Section 379 of Indian Penal Code.

3. Further it is averred in the affidavit that on 05.01.2017, one Mani, aged 59 years, S/o.Balu, residing at No.11-A, Vannarapathai, Kodambakkam, Chennai - 24, as defacto complainant, has given a complaint in Vadapalani Police Station, wherein it is alleged to the effect that in the place of occurrence by showing a knife, the detenu has forcibly taken away a sum of Rs.700/- from the shirt pocket of the defacto complainant and also threatened him. Under such circumstances, a case has been registered in Crime No.59 of 2017 under Sections 341, 336, 427, 397 and 506(ii) 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 detenu himself, as petitioner.

5. In the counter filed on the side of the respondents it is averred to the effect that most of the averments made in the petition are false. The Sponsoring Authority has submitted all the relevant materials to the Detaining Authority. The Detaining Authority, after perusing all the relevant materials, has rightly arrived at a subjective satisfaction to the effect that the detenu is a habitual offender and ultimately, passed the impugned Detention Order and the same does not call for any interference and therefore, the present petition deserves to be dismissed.

6. The learned counsel appearing for the petitioner/detenu has contended to the effect that the petitioner/detenu has submitted a representation, but the same has not been disposed

of without delay and therefore, the Detention Order in question is liable to be quashed.

7. The learned Additional Public Prosecutor has contended that the representation submitted on the side of the petitioner/detenu has been duly disposed of without delay and therefore, the contention put forth on the side of the petitioner/detenu 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, 1 clear working day is available and in between column Nos.12 and 13, 3 clear working days are available and no explanation has been given on the side of the respondents with regard to such 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 13.02.2017 passed in Memo No.55/BCDFGISSSV/2017 by the second respondent against the detenu by name, Nagamani, aged 40 years, S/o.Solai, Pillaiyar Koil Street, N.R.Pettai, Ginjee, Villupuram Road, Villupuram 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 III)

/true copy/

Sub Asst. Registrar

gpa

To

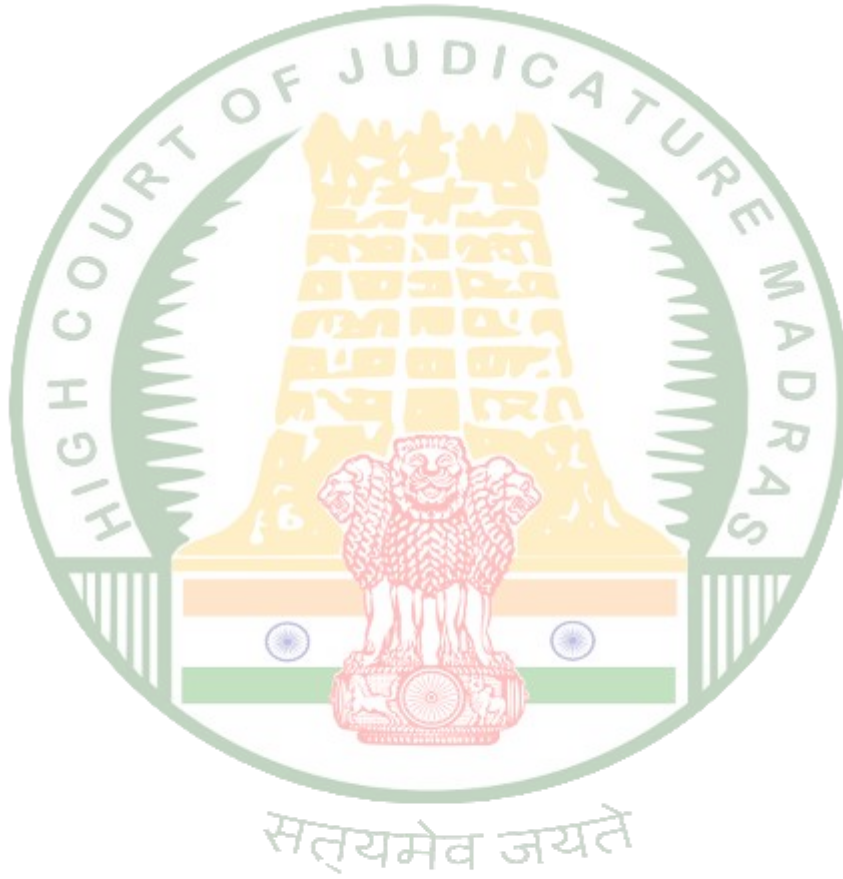
1. The Joint Secretary to Government of Tamil Nadu,
Public [Law and Order] Department,
Secretariat, Chennai-9.
2. The Secretary to the Government
Home, Prohibition and Excise Department
Secretariat
Chennai- 600 009
3. The Commissioner of Police
Greater Chennai Police
Vepery, Chennai - 600 007

4. The Superintendent
Central Prison II
Puzhal, Chennai-66

5. The Public Prosecutor,
High Court, Madras.

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SKV(CO)
NR 30/08/2017



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