

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 04.08.2017

CORAM

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

H.C.P.No.442 of 2017

Gunasundari

..Petitioner

Vs

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

2.The Commissioner of Police,
Greater Chennai Police,
Vepery, Chennai-7.

..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 petitioner's husband detention under Tamil Nadu Act 14 of 1982 vide detention order dated 13.02.2017 on the file of the 2nd respondent herein made in proceedings No.62/BCDFGISSSV/2017 and quash the same as illegal and consequently direct the respondents herein to produce the said petitioner's husband namely Charles, aged 35 years, S/o.Magimaidoss, before this Hon'ble High Court and set the petitioner's husband at liberty from detention, now petitioner's husband detained at Central Prison-II, Puzhal, Chennai-66.

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 records relating to the detention order passed in No.62/BCDFGISSSV/2017 dated 13.02.2017 by the Detaining Authority against the detenu by name, Charles, aged 35 years, S/o.Magimaidoss, residing at No.4/28D, Beerbailivan, Thangal, Dharga Road, Thiruvottriyur, Chennai-19 and quash the same.

2. The Inspector of Police, M-7 Manali New Town 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. M-7 Manali New Town Police Station Crime No.1210/2016 registered under Section 379 of IPC.
- ii. M-7 Manali New Town Police Station Crime No.1943/2016 registered under Section 397 of IPC.

3. Further, it is averred in the affidavit that on 26.12.2016, one Raghupathy, aged 30 years, S/o. Amavasai, residing at No.143, Newnappalaiyam, Manali New Town, Chennai-103, as de facto complainant has given a complaint to the Sub Inspector of Police, M-7 Manali New Town Police Station, wherein, it is alleged to the effect that in the place of occurrence, the detenu by showing a deadly weapon, has snatched a sum of Rs.500/- from the pocket of the de facto complainant and also created panic in the minds of the general public and consequently, a case has been registered in Crime No.1951/2016 under Sections 341, 294[b], 336, 427, 392 r/w 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 considering the averments made in the affidavit and other connected documents, has arrived at a subjective satisfaction 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. Despite repeated adjournments, on the side of the respondents, counter has not been filed and therefore, the present Habeas Corpus Petition is disposed of on merits on the basis of the available materials on record.

6. Learned counsel appearing for the petitioner has contended to the effect that on the side of the detenu, a representation has been submitted to the concerned authorities. But, the same has not been disposed of without delay and therefore, the Detention Order in question is liable to be quashed.

7. Learned Additional Public Prosecutor has contended that the representation submitted on the side of the detenu has been disposed of without delay and therefore, the contention urged 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, 3 clear working days are available.

Likewise, 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 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.

9. In fine, this petition is allowed. The Detention Order dated 13.02.2017 passed in No.62/BCDFGISSSV/2017 by the Detaining Authority against the detenu by name, Charles, aged 35 years, S/o.Magimaidoss is quashed and directed to set him at liberty forthwith, unless he is required to be incarcerated in any other case.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1.The Joint Secretary to Government of Tamil Nadu,
Public [Law and Order] Department,
Secretariat, Chennai-9.

2.The Secretary to Government,
Government of Tamil Nadu,
Home, Prohibition and Excise Department,
Secretariat, Chennai-9.

3.The Commissioner of Police,
Greater Chennai Police,
Vepery, Chennai-7.

4.The Superintendent,
Central Prison, Puzhal, Chennai.
[in duplicate for communication to the detenu]

5.The Public Prosecutor,
High Court, Madras.

GP(CO)
EU 4.08.17

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