

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 26.07.2017

CORAM

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

H.C.P.No.445 of 2017

C.Innasinathan

.. Petitioner

Vs

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

2.The Commissioner of Police,
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 records pertaining to the order of detention passed in BCDFGISSSV No.54/2017 dated 13.02.2017 passed by the 2nd respondent and set aside the same and to produce the son of the petitioner by name Revington Karthik Leo, aged 25 years, S/o.Innasinathan, before this Hon'ble Court now confined in Central Prison, Puzhal, Chennai, set him at liberty.

For Petitioner : Mr.A.V.Ravindranath Jayapal

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

ORDER

[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 BCDFGISSSV No.54/2017 dated 13.02.2017 by the Detaining Authority against the detenu by name, Revington Karthik Leo, aged 25 years, S/o.Innasinathan and quash the same.

2. The Inspector of Police, R-8 Vadapalani Police Station as Sponsoring Authority has submitted an affidavit to the Detaining Authority, wherein, it is stated to the effect that on 30.11.2016, one Ravi, S/o.Sundaram, as de facto complainant has given a complaint in Vadapalani Police Station, wherein, it is stated that the detenu has attacked one Gopalakrishnan, by using a knife and due to his overt act, he passed away. Under such circumstances, a case has been registered in Crime No.1775/2016 under Section 302 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 averments made in the affidavit and other connected documents, has arrived at a subjective satisfaction to the effect that the detenu has committed a grave offence 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 father of the detenu as petitioner.

4. 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 considering the gravity of offence alleged to have been committed by the detenu has arrived at a subjective satisfaction and rightly, branded him as goonda by way of passing the impugned Detention Order and the same does not call for any interference 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 and the same has not been disposed of 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 put forth on the side of the petitioner is liable to be eschewed.

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, 2 clear working days are available and no explanation has been given on the side of the respondents.

8. Even though the delay occurred in between column Nos.7 and 9 is nothing but meagre, the Court has looked into, as to when, copy of the Detention Order has been served to the detenu. It is an admitted fact that the Detention Order has been passed on 13.02.2017, whereas, a copy of the same has been served to the detenu on 21.02.2017 and therefore, it is quite clear that an enormous delay has occurred in serving copy of the Detention Order and no explanation has been given on the side of the respondents and that itself would be sufficient to quash the Detention Order in question.

9. In fine, this petition is allowed. The Detention Order dated 13.02.2017 passed in BCDFGISSSV No.54/2017 by the Detaining Authority

against the detenu by name, Revington Karthik Leo, aged 25 years, S/o.Innasinathan, is quashed and directed to set him at liberty forthwith, unless he is required to be incarcerated in any other case.

[A.S., J.] [P.K., J.]
26.07.2017

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To

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

2.The Commissioner of Police,
Chennai-7.

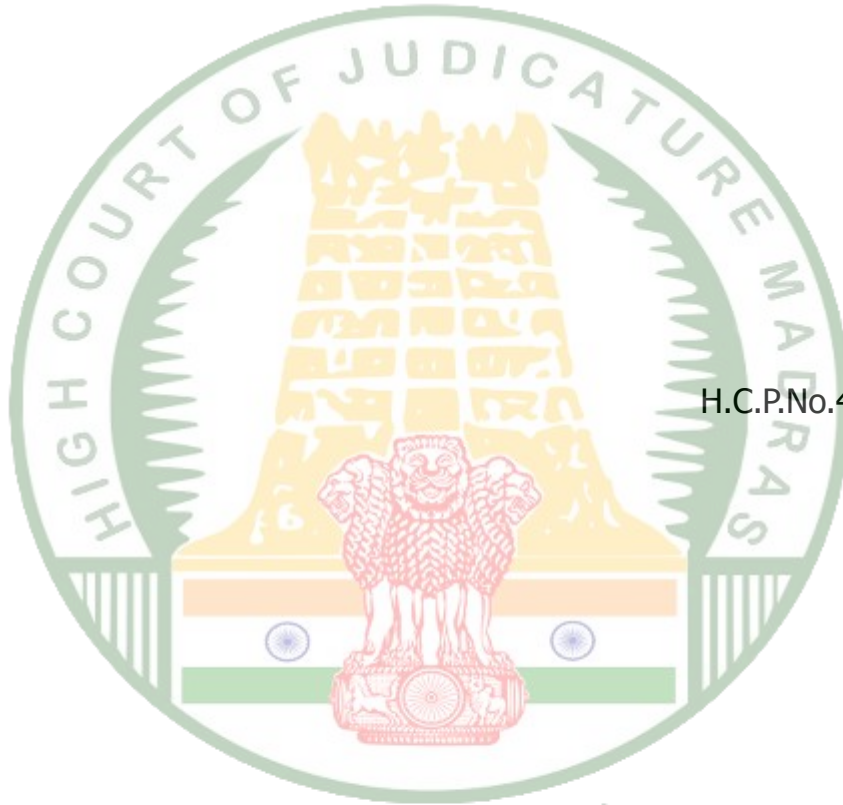
3.The Public Prosecutor,
High Court, Madras.



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A.SELVAM, J.
and
P.KALAIYARASAN, J.

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