

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 15.09.2017

CORAM

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

H.C.P.No.451 of 2017

Dhesamma

.. Petitioner

Vs

1.The State rep. by
Secretary to the Government,
Home, Prohibition and Excise Department,
Fort St. George, Chennai-9.

2.State rep. by
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 entire records culminating in the passing of the order of detention the petitioner's son, the detenu under Act 14/1982 vide detention order No.65/BCDFGISSSV/2017 dated 13.02.2017, on the file of the 2nd respondent herein and quash the same as illegal and consequently direct the respondents herein to produce the body and person of the detenu by name Sarath, aged 24 years, S/o.Kumar, before this Hon'ble Court and set him at liberty from the detention now confined at Central Prison, Puzhal, Chennai.

For Petitioner : Mr.M.Sankar

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.65/BCDFGISSSV/2017 dated 13.02.2017 by the Detaining Authority against the detenu

by name, Sarath, aged 24 years, S/o.Kumar, residing at No.470, G-Block, VOC Nagar, Tsunami Quarters, Tondiarpet, Chennai-81 and quash the same.

2. The Inspector of Police, Royapuram 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. N-4 Fishing Harbour Police Station Crime No.804/2014 registered under Sections 307 @ 302 r/w 34 of the Indian Penal Code.
- ii. N-4 Fishing Harbour Police Station Crime No.1615/2016 registered under Sections 341, 307 and 506[ii] r/w 120[b] @ 341, 302 and 506[iii] r/w 120[b] of the Indian Penal Code.
- iii. N-1 Royapuram Police Station Crime No.38/2017 registered under Sections 341, 294[b], 384 and 506[iii] of the Indian Penal Code.

3. Further, it is averred in the affidavit that on 06.01.2017, one Sekar, aged 40 years, S/o.Thanthoni, residing at No.221, R-Block, VOC Nagar, Tsunami Quarters, Tondiarpet, Chennai-81, as de facto complainant has given a complaint in N-1 Royapuram Police Station, wherein, it is alleged to the effect that in the place of occurrence, the detenu has demanded money from the de facto complainant for taking liquor. Since the de facto complainant has refused, by showing a knife, the detenu has forcibly taken away a sum of Rs.700/- from the custody of the de facto complainant and he has also threatened him. Under such circumstances, a case has been registered in Crime No.44/2017 under Sections 341, 294[b], 323, 336, 427, 397 and 506[iii] of the 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 arrived at 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. 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 material records, has 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 suffer from any

infirmity and therefore, the present petition deserves to be dismissed.

6. Learned counsel appearing for the petitioner has contended to the effect that the detenu has been supplied with a booklet, wherein, copies of vital documents are not readable and the same has caused prejudice to the detenu and therefore, the Detention Order in question is liable to be quashed.

7. Learned Additional Public Prosecutor has contended that in the booklet, all copies of vital documents are readable and also legible and therefore, the contention put forth on the side of the petitioner is liable to be rejected.

8. In fact, this Court has perused the entire copies of booklet, wherein, copies which are available at page Nos.213, 359, 361, 369, 391 and 397 are not readable would cause prejudice to the detenu 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.65/BCDFGISSSV/2017 by the Detaining Authority against the detenu by name, Sarath, aged 24 years, S/o.Kumar, is quashed and directed to set him at liberty forthwith, unless he is required to be incarcerated in any other case.

Sd/-
Assistant Registrar(CS II)

//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 the Government,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai-9.

3.The Commissioner of Police,
Chennai-7.

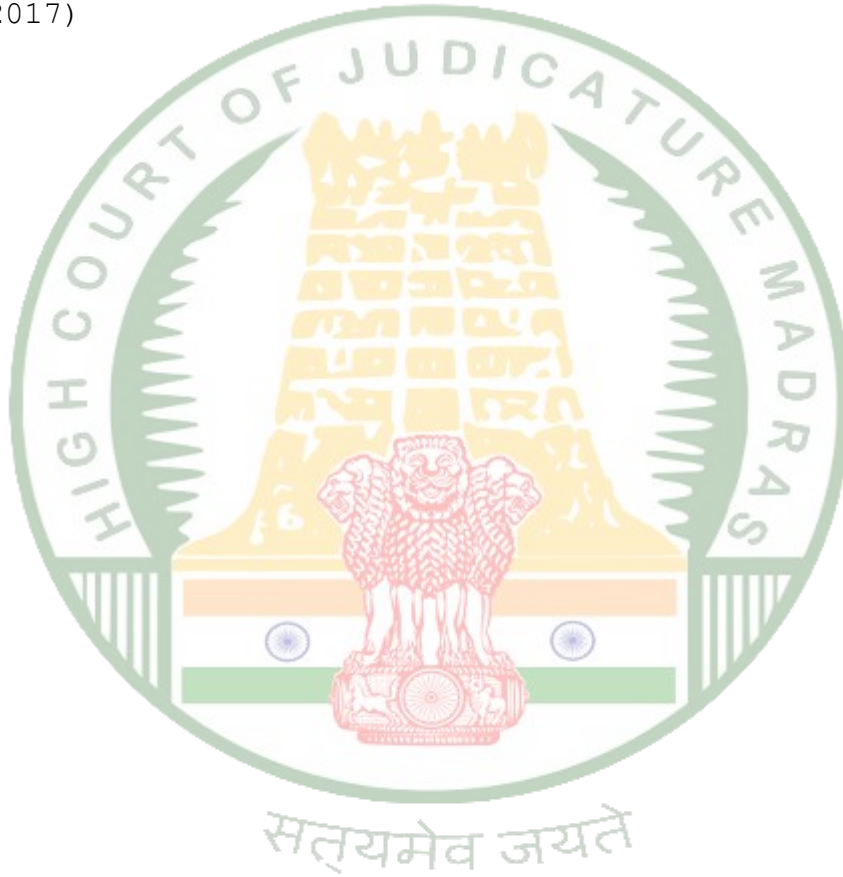
4.The Superintendent,
Central Prison, Puzhal, Chennai.
[in duplicate for communication to the detenu]

5.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.M.Shankar, Advocate, S.R.No.67273

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RSI (CO)
GN(15/09/2017)



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