

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 22.08.2017

CORAM

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

H.C.P.No.454 of 2017

Porpavai

.. Petitioner

Vs

1. The Secretary to the Government
Home Prohibition and Excise Dept.
Secretariat
Chennai - 600 009.

2. District Collector &
District Magistrate
Vellore District
Vellore 9.

.. Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS, to call for the records in connection with the order of Detention passed by the second respondent dated 02.02.2017 in C3/D.O.No.10/2017 against the petitioner son Sathish, Male aged 27 years S/o.Rajendiran, who is confined at Central Prison, Vellore and set aside the same and direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner : Mr.S.Senthil Vel

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 C3/D.O.No.10/2017 dated 02.02.2017 by the Detaining Authority against the detenu by name, Sathish, aged 27 years, S/o.Rajendiran, No.2/271, Ambethkar Street, Latheri Colony and Post, Katpadi Taluk, Vellore District and quash the same.

2. The Inspector of Police, Katpadi Police Station, as

Sponsoring Authority, has submitted an affidavit to the Detaining Authority, wherein, it is averred effect that the detenu has involved in the following adverse cases:

i) Virinchipuram Police Station, Crime No.349 of 2015, registered under Sections 147, 294(b), 323, 324 and 506(ii) of Indian Penal Code;

ii) Virudhampet Police Station, Crime No.145 of 2016, registered under Section 302 of Indian Penal Code;

iii) Latheri Police Station, Crime No.264 of 2016, registered under Sections 341, 294(b), 352 and 506(ii) of Indian Penal Code; and

iv) Latheri Police Station, Crime No.404 of 2016, registered under Sections 294(b), 427, 392 and 506(ii) of Indian Penal Code;;

3. Further it is averred in the affidavit that on 25.12.2016 one Muniraj, S/o.Ramakrishnan, residing at No.1/30, Old Police Station Road, Latheri, as defacto complainant, has given a complaint to the Sub-Inspector of Police, Katpadi Police Station wherein it is alleged to the effect that in the place of occurrence, the detenu and others, by showing deadly weapon, have snatched a sum of Rs.2000/- from the defacto complainant and they have also threatened the defacto complainant and general public. Under such circumstance, a case has been registered in Crime No.653 of 2016 under Sections 294(b), 323, 427, 336, 392, 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 mother of the detenu, as petitioner.

5. On the side of the respondents, counter has not been filed and therefore, the present petition is disposed of on merits on the basis of materials available 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, 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 duly 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 is clearly stated that in between column Nos.7 and 9, 6 clear working days are available and in between column Nos.12 and 13, 14 clear working days are available and no explanation has been given on the side of the respondents with regard to such delay 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 02.02.2017 passed in C3/D.O.No.10/2017 by the Detaining Authority against the detenu by name, Sathish, aged 27 years, S/o.Rajendiran, No.2/271, Ambethkar Street, Latheri Colony and Post, Katpadi Taluk, Vellore District, is quashed and directed to set him at liberty forthwith, unless he is required to be incarcerated in any other case.

s/d-

Assistant Registrar(CS VIII)

True Copy

Sub-Assistant Registrar

gpa

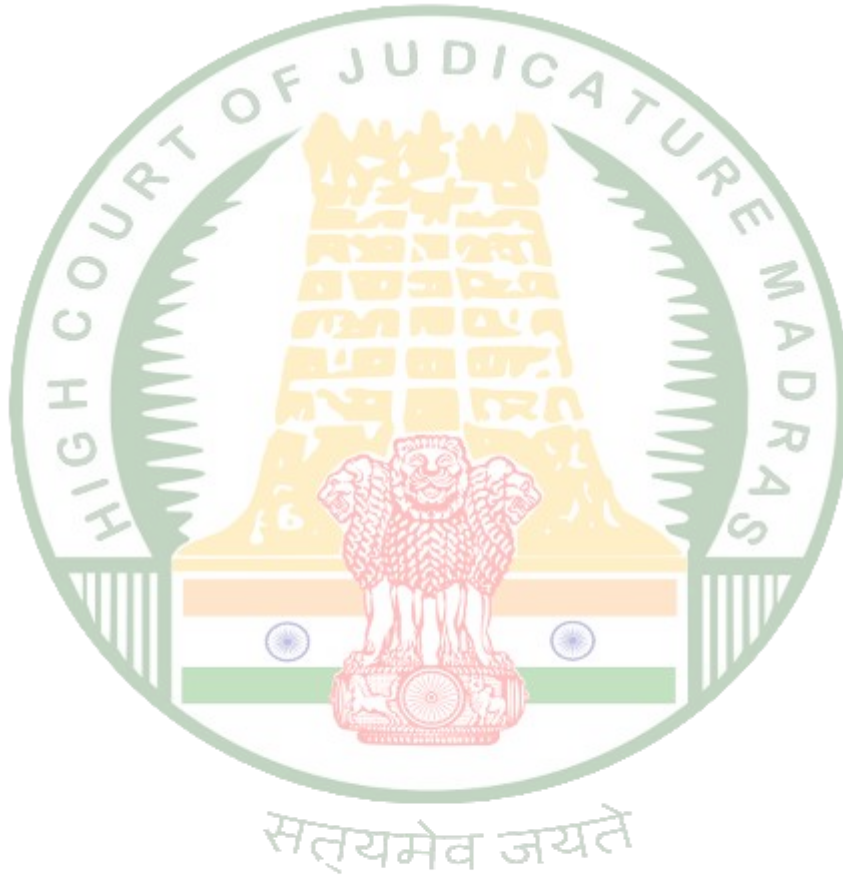
To

1. The Joint Secretary to Government of Tamil Nadu, Public [Law and Order] Department, Secretariat, Chennai-9.
2. The Secretary to Government Home, Prohibition and Excise Department Secretariat, Chennai - 600 009
3. The District Collector and District Magistrate, Vellore District Vellore-632 009
4. The Superintendent Central Prison, Vellore(In duplicate)

5. The Public Prosecutor,
High Court, Madras.

H.C.P.No.454 of 2017

SP(22/08/2017)



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