

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 13.09.2017

CORAM

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

H.C.P.No.460 of 2017

Ramesh

.. Petitioner

Vs

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

2.The District Collector and District Magistrate,
Kancheepuram District,
Kancheepuram.

.. 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 friend detention under Tamil Nadu Act 14/1982 vide detention order dated 09.02.2017 on the file of the 2nd respondent herein made in proceedings BCDFGISSSV No.11/2017 and quash the same as illegal and consequently direct the respondents herein to produce the said petitioner's friend namely Silambarasan, aged 24 years, S/o.Elumalai, before this Hon'ble Court and set the petitioner's friend at liberty from detention, now detained at Central Prison-II, Puzhal, Chennai-66.

For Petitioner : Mr.V.Paarthiban
for Mr.C.C.Chellappan

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.11/2017 dated 09.02.2017 by the Detaining Authority against the detenu by name, Silambarasan, aged 24 years, S/o.Elumalai, residing at K.K.Nagar, Mannivakkam, Chennai-48 and quash the same.

2. The Inspector of Police, Otteri 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 case :

- i. Otteri Police Station Crime No.671/2016 registered under Sections 120-B, 147, 148, 302 of the Indian Penal Code r/w Sections 3 and 6 of the Explosive Substances Act, 1908.

3. Further, it is averred in the affidavit that on 21.12.2016, at about 10.30 a.m., one Murugesan, aged 32 years, S/o.Palaniyandi, residing at No.11/5, Rajiv Gandhi Nagar, Ganesan Street, Nesapakkam, Chennai-78, as de facto complainant has given a complaint against the present detenu and

others, wherein, it is alleged that in the place of occurrence, the detenu has tried to attack the de facto complainant by using filthy words and also caused damages to properties and at such circumstances, a case has been registered in Otteri Police Station Crime No.673/2017 under Sections 294[b] and 506[ii] of the Indian Penal Code r/w Section 3[i] of Tamil Nadu Property [Prevention of Damage and Loss] Act, 1992 @ into under Sections 147, 148, 294[b] and 506[ii] of the Indian Penal Code r/w Section 3[i] of Tamil Nadu Property [Prevention of Damage and Loss] Act, 1992 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 derived to 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 friend of the detenu as petitioner.

5. 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 available materials on record.

6. Learned counsel appearing for the petitioner has contended to the effect that at page No.173 in the booklet, copy of the remand order has been

annexed, wherein, it is clearly stated about the provision of Section 41 of the Code of Criminal Procedure, 1973 and further, it is stated in the remand report of English version, the grounds of arrest and legal aid have also been mentioned. Copy of the Tamil version of remand report is found place in page No.175, wherein, the said vital information are totally absent.

7. Since in Tamil version, vital informations are totally absent as pointed out by the learned counsel for the petitioner, 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.

8. In fine, this petition is allowed. The Detention Order dated 09.02.2017 passed in BCDFGISSSV No.11/2017 by the Detaining Authority against the detenu by name, Silambarasan, aged 24 years, S/o.Elumalai is quashed and directed to set him at liberty forthwith, unless he is required to be incarcerated in any other case.

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[A.S., J.]

[P.K., J.]

13.09.2017

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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,
Secretariat, Chennai-9.

3.The District Collector and District Magistrate,
Kancheepuram District,
Kancheepuram.

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

5.The Public Prosecutor,
High Court, Madras.



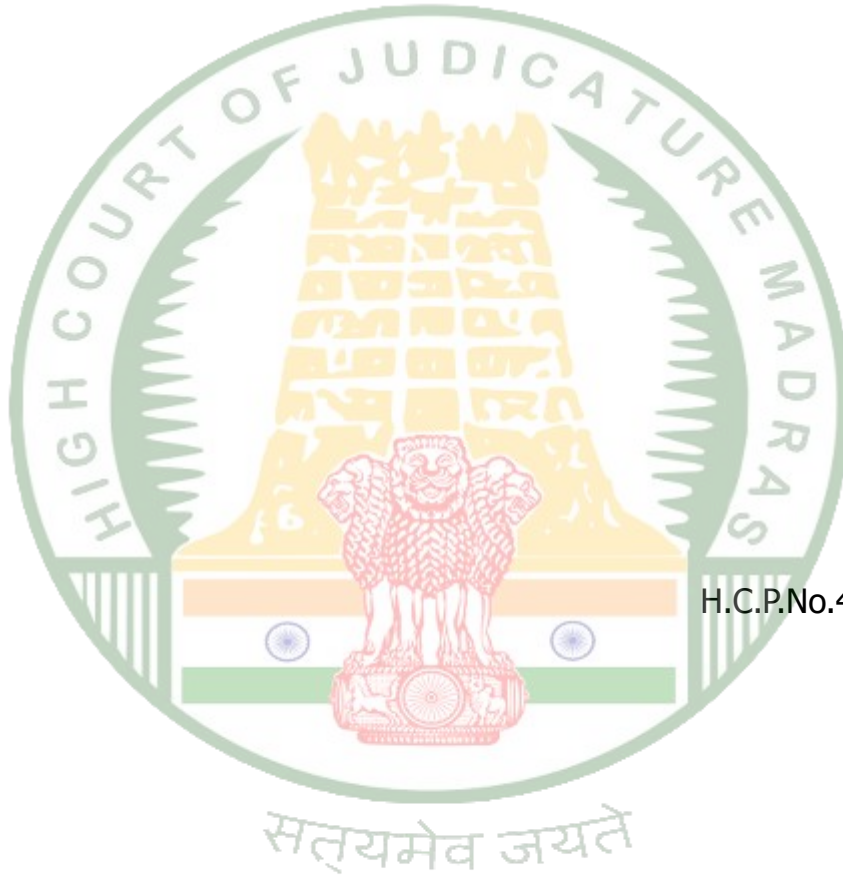
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A.SELVAM, J.

and

P.KALAIYARASAN, J.

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