

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 11.09.2017

CORAM

THE HON'BLE Mr.JUSTICE A.SELVAM
and
THE HON'BLE Mr.JUSTICE S.BASKARAN

H.C.P.No.464 of 2017

Valliammal

.. Petitioner

Vs

1.The State of Tamil Nadu,
Rep. by its Secretary to the Government,
Home, Prohibition and Excise Department,
Fort St. George, Secretariat
Chennai- 600 009

2.The District Collector and
District Magistrate of Vellore District
Vellore

... Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS, calling for the records in connection with the order of detention passed by the second respondent dated 07.02.2017 in his office Ref.No.C3/D.O.No.13/2017 against the petitioner's husband by name Anbalagan @ Kattakalan S/o.Chinnakannu, now confined at Central Prison, Vellore and set aside the same and direct the respondents to produce the above said detenu before this Court and set him at liberty. सत्यमेव जयते

For Petitioner : Mr.E.Kannadasan

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.13/2017 dated 07.02.2017 by the Detaining Authority against the detenu by name, Anbazhagan @ Kattakalan, aged 36 years, S/o.Chinnakannu, residing at Thennamara Street, Naickaneri Village, Vellore Taluk, Vellore District and quash the same.

2. The Inspector of Police, Vellore Prohibition Enforcement Wing, 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. Vellore Taluk Police Station, Crime No.76 of 2016, under Sections 4(1)aaa, 4(1-A) ii of TNP Act, 1937, altered into Section 4(1)aaa of TNP Act, 1937 (Act 10/1937);
- ii. Vellore Taluk Police Station, Crime No.530 of 2016, registered under Sections 4(1)aa of TNP Act, 1937 (Act 10/1937);
- iii. Vellore Prohibition Enforcement Wing, Crime No.173 of 2016, registered under Sections 4(1)aa, 4(1-A) ii TNP Act, 1937, altered into Section 4(1)aa of TNP Act, 1937 (Act 10/1937);
- iv. Vellore Taluk Police Station, Crime No.498 of 2016, registered under Sections 4(1)(i), 4(1)aaa, 4(1-A)ii of TNP Act, 1937 (Act 10/1937) r/w.328 of Indian Penal Code;
- v. Vellore Prohibition Enforcement Wing, Crime No.20 of 2017, registered under Sections 4(1)aa of TNP Act, 1937 (Act 10/1937).

3. Further, it is averred in the affidavit that on 22.01.2017, Inspector of Police, Prohibition Enforcement Wing, Vellore and others have conducted prohibition raid near Thamarai Kulam in Naickaneri Village and ultimately found the detenu. At that time, the detenu has sold illicit arrack and due to that a case has been registered in Crime No.34 of 2017, under Sections 4(1)i, 4(1)aaa, 4(1-A)ii Tamil Nadu Prohibition Act, 1937 r/w.328 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 to the effect that the detenu is a habitual offender and ultimately, branded him as 'Bootlegger' 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. On the side of the respondents, counter has not been filed. Under such circumstance, this 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 on the side of the detenu, a representation has been given, 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 given on the side of the detenu has been disposed of without delay and therefore, the contention put forth 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 to 9, 17 clear working days are available. Likewise, in between column Nos.12 and 13, 20 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 07.02.2017 passed in C3.D.O.No.13/2017 by the Detaining Authority against the detenu by name, Anbazhagan @ Kattakalan, aged 36 years, S/o.Chinnakannu, is quashed and directed to set him at liberty forthwith, unless he is required to be incarcerated in any other case.

Sd/-
Asst.Registrar (CS II)

/true copy/

सत्यमेव जयते Sub Asst. Registrar

gpa

To

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

WEB COPY

2. Secretary to the Government,
Home, Prohibition and Excise Department,
Fort St. George, Secretariat
Chennai- 600 009

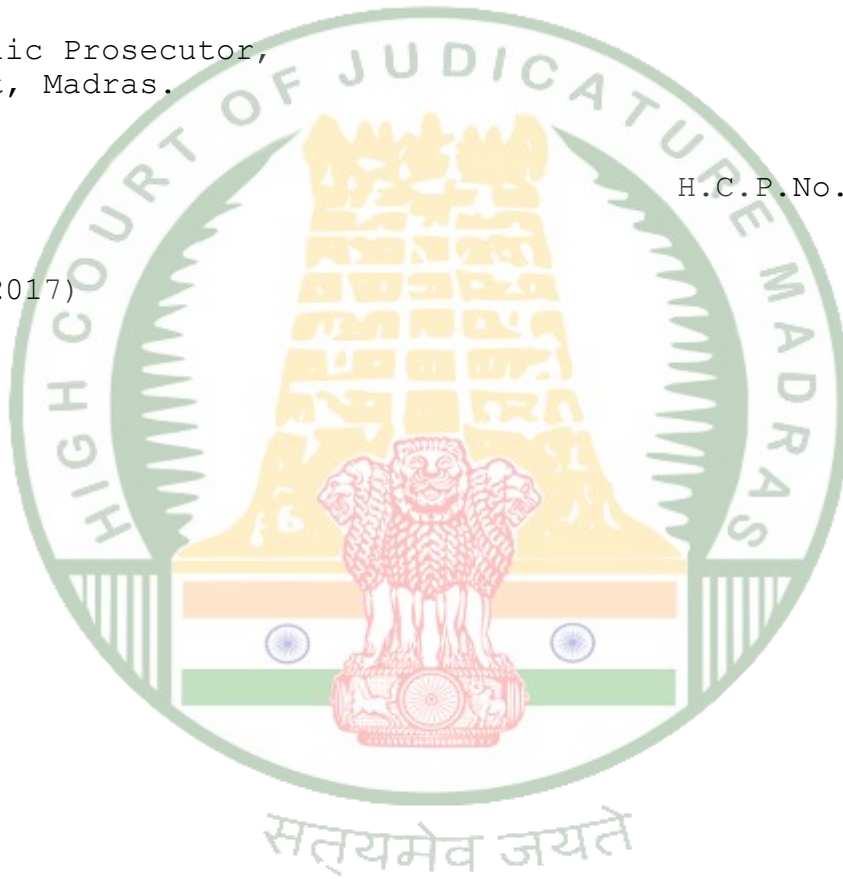
3.The District Collector and
District Magistrate of Vellore District
Vellore

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

5.The Public Prosecutor,
High Court, Madras.

H.C.P.No.464 of 2017

RSK(CO)
VR(11/09/2017)



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