

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 12.09.2017

CORAM

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

H.C.P.No.472 of 2017

A.Sharmili

... Petitioner

Vs

1.The Commissioner of Police,
Coimbatore City Police,
Coimbatore.

2.State rep. by
The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai-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 detention order dated 21.02.2017 in order C.No.18/G/IS/2017 passed by the 1st respondent, the detaining authority, set aside the same and direct the respondents to produce the detenu J.Arul Abraham @ Arul, TPDA, No.858, S/o.Jothinayagam, who is now detained in Central Prison, Coimbatore before this Hon'ble Court and set him at liberty.

For Petitioner : Mr.A.Praveen Kumar

For Respondents : Mr.V.M.R.Rajentren, APP

WEB COPY
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 C.No.18/G/IS/2017 dated 21.02.2017 by the Detaining Authority against the detenu

by name, J.Arul Abraham @ Arul, aged 28 years, S/o.Jothinayagam, residing at No.40, Radhakrishnan Street, B.B.Kulam, Behind Uzhavar Sandai, Madurai District and quash the same.

2. The Inspector of Police, E-1 Singanallur Police Station as Sponsoring Authority has submitted an affidavit to the Detaining Authority, wherein, it is averred to the effect that on 05.10.2016, one Basheer, S/o.Sulaiman, residing at No.473-D, Kamarajar Road, Ramanujam Nagar, Coimbatore, as de facto complainant has lodged a complaint, wherein, it is alleged that on the date of occurrence, the present detenu and others have entered into the house of the de facto complainant and forcibly taken away 150 sovereigns of gold and cash of Rs.40,00,000/- and at such circumstances, a case has been registered in Crime No.782/2016 under Sections 170, 419, 420 and 451 of the 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 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 wife of the detenu as petitioner.

4. 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.

5. Learned counsel appearing for the petitioner has contended to the effect that on the side of the detenu, two representations are submitted, but the same are not disposed of without delay and therefore, the Detention Order in question is liable to be quashed.

6. Learned Additional Public Prosecutor has contended to the effect that the representations submitted on the side of the detenu have been duly disposed of without delay and therefore, the contention urged on the side of the detenu is liable to be rejected.

7. On the side of the respondents, a proforma has been submitted, wherein, it is clearly stated that in respect of first representation, in between column Nos.7 to 9, 6 clear working days are available and in between column Nos.12 and 13, 12 clear working days are available. Likewise, in respect of second representation, in between column Nos.7 to 9, 8 clear working days are available and in between column Nos.12 and 13, 29 clear working days are available and no explanation has been given on the side of the respondents with regard to such huge

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.

8. In fine, this petition is allowed. The Detention Order dated 21.02.2017 passed in C.No.18/G/IS/2017 by the Detaining Authority against the detenu by name, J.Arul Abraham @ Arul, aged 28 years, S/o.Jothinayagam 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 VI)

/true copy/

Sub Asst. Registrar

gya

To

1.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai-9.

2.The Commissioner of Police,
Coimbatore City Police,
Coimbatore.

3.The Superintendent,
Central Prison, Coimbatore.
[in duplicate for communication to the detenu]

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

5.The Public Prosecutor,
High Court, Madras.

scd(co)
ss(12/9/2017)

H.C.P.No.472 of 2017