

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 14.07.2017

CORAM

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

H.C.P.No.481 of 2017

Ravathi .. Petitioner/Daughter
of the Detenue

Vs

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

2.The District Collector and 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 entire records, relating to the Detention Order passed by the second respondent pertaining to the order made in C3/D.O No.27/2017 dated 13.03.2017 in detaining the detenue under Section 2(b) of Tamil Nadu Act 14 of 1982 as a Bootlegger and quash the same and direct the respondents to produce the detenue Kalaivani, W/o. of Munirathinam, aged about 47 years, who is now detained at Special Prison for Women, Vellore before this Court and set her at liberty

For Petitioner : Mr.G.Nirmalkrishnan

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 the records relating to the detention order passed in C3/D.O No.27/2017

dated 13.03.2017, against the detinue by name, Kalaivani, aged 47 years, W/o.Munirathinam, residing at Pudu Theru, Govinda Reddy Palayam Village, Anaicut Taluk, Vellore District and quash the same.

2. The Inspector of Police, Prohibition Enforcement Wing, Vellore, as Sponsoring Authority, has submitted an affidavit to the Detaining Authority, wherein, it is averred to the effect that the detinue has involved in the following adverse cases:

i) Ariyur Police Station, Crime No.236 of 2015, registered under Sections 4(1)a, 4(1-A)ii of TNP Act, 1937, altered to Section 4(1)a of TNP Act, 1937; and

ii) Vellore Prohibition Enforcement Wing, Crime No.157 of 2016, registered under Sections 4(1)a and 4(1-A)ii of TNP Act, 1937 r/w.420 of Indian Penal Code, altered into Sections 4(1)a of TNP Act, 1937 r/w.420 of Indian Penal Code;

3. Further, it is averred in the petition that on 23.02.2017, the Inspector of Police and others have watched Usoor Village and found that the detinue is in possession of illicit arrack and consequently, a case has been registered against her in Crime No.83 of 2017 under Sections 4(1) aaa, 4(1-A)ii of Tamil Nadu Prohibition Act, 1937 r/w. Section 7 of Tamil Nadu Rectified Spirit Rules, 2000 and ultimately, requested the Detaining Authority to invoke Act 14 of 1982 against the detinue.

4. The Detaining Authority, after considering the averments made in the affidavit and other connected materials, has derived a subjective satisfaction to the effect that the detinue is a habitual offender and ultimately, branded her 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 daughter of the detinue, as petitioner.

5. On the side of the respondents, a counter has been filed, wherein, it is contended inter alia to the effect that most of the averments made in the petition are false. The Sponsoring Authority has submitted all the materials records to the Detaining Authority and the Detaining Authority, after considering all the relevant materials, has rightly passed the impugned Detention Order and the same does not warrant any interference and therefore, the present petition deserves to be dismissed.

6. The learned counsel appearing for the petitioner has contended to the effect that on the side of the detinue, 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. Per contra, the learned Additional Public Prosecutor has contended that the representation submitted on the side of the detainee has been duly 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 and 9, 5 clear working days are available and in between Column Nos.12 and 13, 19 clear working days are available and no explanation has been given on the side of the respondents with regard to such huge delay and that the same would affect the rights of the detainee 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 Habeas Corpus Petition is allowed and the Detention Order dated 13.03.2017 passed in Detention Order No. C3/D.O No.27/2017 by the second respondent against the detainee by name, Kalaivani, aged 47 years, W/o.Munirathinam, residing at Pudu Theru, Govinda Reddy Palayam Village, Anaicut Taluk, Vellore District is quashed and directed to set her at liberty forthwith unless she is required to be incarcerated in any other case.

Sd/-
Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

gpa

To

- 1.The Secretary to Government
Home, Prohibition and Excise Department
Fort St. George
Chennai - 600 009
2. The District Collector and District Magistrate
Vellore District
Vellore-9
- 3.The Superintendent,
Special Prison for Women,
vellore.

4.The Joint Secretary ,
Public (Law & Order) Department,
Fort St.George, Chennai.

5.The Public Prosecutor,
High Court, Madras.

H.C.P.No.481 of 2017

rv(cO)
ss(14/7/2017)



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