

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 23.08.2017

CORAM

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

H.C.P.No.482 of 2017

Mrs.Usha

.. Petitioner

Vs

1. The Inspector of Police
E-1, Singanallur Police Station
Coimbatore City
2. The Commissioner of Police
Coimbatore City
Coimbatore
3. The Secretary to Government
Home, Prohibition and Excise Department
Chennai - 600 009

... Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS, to call for the records relating to the Detention Order passed by the 2nd respondent in C.No.16/G/IS/2017 dated 20.02.2017 and to quash the same and direct the respondents to produce the person or body of the detenu, Arumugapandian @ Arumugam, aged 44 years, now detained at Central Prison, Coimbatore before this Court and set him at liberty.

For Petitioner : Mr.A.Anilan

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 C.No.16/G/IS/2017 dated 20.02.2017, against the detenu by name, M.Arumugapandian @

Arumugam, aged 44 years, S/o.Muthupandian, Door No.2/33, Main Road, Jameen Singampatty, Ambasamudram Taluk, Tirunelveli 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 at about 18.15 hours, one Basheer, S/o.Sulaiman, residing at Door No.473-D, Kamarajar Road, Ramanujam Nagar, Coimbatore, as defacto complainant, has given a complaint wherein it is alleged that on the date of occurrence, the present detenu and others in police uniform have forcibly entered into the house of the defacto complainant and compelled him to open the locker and they have also closed the CCTV camera and subsequently forcibly taken the defacto complainant by using a car and on the same day at about 06.45 hours, they dropped him at Neelambur, Avinashi Road, Coimbatore. Under such circumstance, a case has been registered in Crime No.782 of 2016 under Sections 170, 419, 420 and 451 of Indian Penal Code and ultimately requested the Detaining Authority to invoke Act 14 of 1982 against the detenu.

3. 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 has committed a 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. Even though several adjournments have been granted for filing counter, 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.

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

6. The learned Additional Public Prosecutor has contended that the representations submitted on the side of the detenu have been duly disposed of without delay and therefore, the contention put forth on the side of the petitioner is liable to be rejected.

7. On the side of the respondents, a proforma has been submitted, wherein, it has been clearly stated that in respect of first representation, in between column Nos.7 and 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 and 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 that 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 Habeas Corpus Petition is allowed and the Detention Order dated 20.02.2017 passed in C.No.16/G/IS/2017 by the second respondent against the detenu by name, M.Arumugapandian @ Arumugam, aged 44 years, S/o.Muthupandian, Door No.2/33, Main Road, Jameen Singampatty, Ambasamudram Taluk, Tirunelveli 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 VI)

True Copy

Sub-Assistant Registrar

gpa

To

1. The Inspector of Police
E-1, Singanallur Police Station
Coimbatore City
2. The Commissioner of Police
Coimbatore City
Coimbatore
3. The Secretary to Government
Home, Prohibition and Excise Department
Chennai - 600 009
4. The Superintendent
Central Prison
Coimbatore
5. The Joint Secretary to Government of Tamil Nadu,
Public [Law and Order] Department,
Secretariat, Chennai-9.

6. The Public Prosecutor,
High Court, Madras.

+1 CC to Ms. R. Venkatraman, Advocate sr 60731.

H.C.P.No.482 of 2017

RSI (CO)
sp(23/08/2017)



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