

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 20.09.2017

CORAM

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

H.C.P.No.486 of 2017

Pavithra

.. Petitioner

Vs

1.The Secretary to Government
Home, Prohibition and Excise Department
Secretariat
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 in connection with the order of detention passed by the second respondent dated 17.03.2017 in C3.D.O.No.29/2017 against the petitioner husband Kadees @ Godwin Mosses, aged 24 years, S/o.Rajendran, who is confined at Central Prison, Vellore and set aside the same and direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner : Mr.S.Senthil Vel

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 the records relating to the detention order passed in C3.D.O.No.29/2017 dated 17.03.2017, against the detenu by name, Kadees @ Godwin Mosses, aged 24 years, S/o.Rajendran, No.19, Erudhukara Sevari Street, Udayendiram Village, Vaniyambadi Taluk, Vellore District and quash the same.

2. The Inspector of Police, K.V.Kuppam 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 cases:

i) Alangayam Police Station, Crime No.53 of 2015, registered under Sections 457 and 380 of the Indian Penal Code;

ii) Alangayam Police Station, Crime No.119 of 2015, registered under Sections 454 and 380 of the Indian Penal Code;

iii) Jolarpettai Police Station, Crime No.585 of 2016, registered under Section 399 of the Indian Penal Code;

iv) Omarabad Police Station, Crime No.47 of 2017, registered under

Sections 454 and 380 of the Indian Penal Code; and

v) Paradarami Police Station, Crime No.12 of 2017, registered under Sections 454 and 380 of the Indian Penal Code

3. Further it is averred in the affidavit that on 02.02.2017, One Sakthivel, aged 49 years, S/o.Viswanathan, residing at Pasumathoor Village, as defacto complainant, has given a complaint in K.V.Kuppam Police Station, against the detenu and another wherein it is alleged to the effect that in the place of occurrence, the detenu and another illegally detained the defacto complainant and forcibly taken away a sum of Rs.1000/- from his custody by showing a knife. Under such circumstances, a case has been registered in Crime No.24 of 2017 under Sections 341, 294(b), 397 and 506(ii) of Indian Penal Code and ultimately requested the Detaining Authority to invoke Act 14 of 1982 against the detenu.

4. 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 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 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. The 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. Per contra, the learned Additional Public Prosecutor has contended to the effect that the representation submitted on the side of the detenu has been duly disposed of without delay and therefore, the contention put forth on the side of the detenu 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, 6 clear working days are available and in between column Nos.12 and 13, 13 clear working days are available and no explanation has been given on the side of the respondents with regard to such delay and that the same would affect the rights of the detenu guaranteed under Article 22(5) of the Constitution of India.

9. In fine, this Habeas Corpus Petition is allowed and the Detention Order dated 17.03.2017 passed in C3.D.O.No.29 of 2017 by the Detaining Authority against the detenu by name, Kadees @ Godwin Mosses, aged 24 years, S/o.Rajendran, is quashed and directed to set him at liberty forthwith unless he is required to be incarcerated in any other case.

[A.S., J.]

[P.K., J.]

20.09.2017

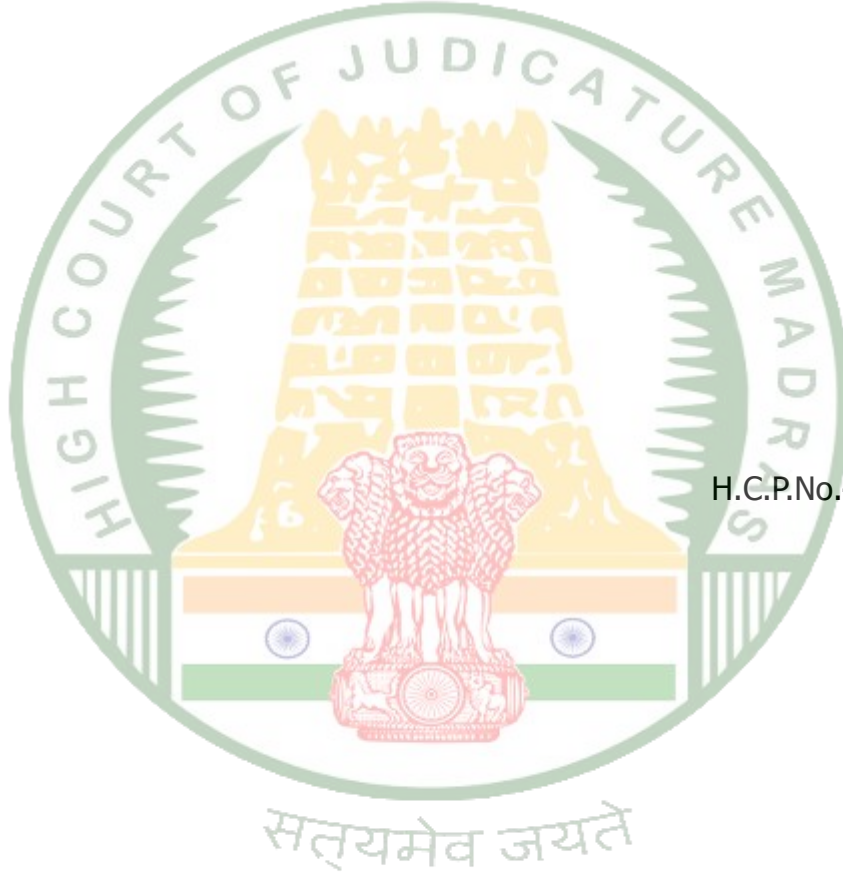
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To

- 1.The Joint Secretary to Government of Tamil Nadu,
Public [Law and Order] Department,
Secretariat, Chennai-9.
- 2.The Secretary to Government
Home, Prohibition and Excise Department
Secretariat
Chennai - 600 009
3. The District Collector and District Magistrate
Vellore District
Vellore-9
- 4.The Superintendent
Central Prison
Vellore
[in duplicate for communication to the detenu]
- 5.The Public Prosecutor,
High Court, Madras.

A.SELVAM, J.
and
P.KALAIYARASAN, J.

gpa



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