

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 07.08.2017

CORAM

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

H.C.P.No.505 of 2017

Pachaiammal

.. Petitioner

Vs

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

2.The District Collector and
District Magistrate,
Dharmapuri.

.. 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 connection with the order of Detention passed by the 2nd respondent dated 16.02.2017 in SC.No.06/2017 against the petitioner's husband Marimuthu @ Viji, aged 26 years, S/o.Murugesan, who is confined at Central Prison, Salem and set aside the same and direct the respondents to produce the detenu before this Hon'ble Court and set him at liberty.

For Petitioner : Mr.S. Senthilvel

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 SC.No.06/2017 dated 16.02.2017 by the Detaining Authority against the detenu by name, Marimuthu @ Viji, aged 26 years, S/o.Murugesan, residing at Thalavaihalliputhur Village, Palacode Taluk, Dharmapuri District and quash the same.

2. The Inspector of Police, Karimangalam 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. Karimangalam Police Station Crime No.55/2014 registered under Sections 457 and 380 of Indian Penal Code.
- ii. Karimangalam Police Station Crime No.112/2014 registered under Sections 457 and 380 of Indian Penal Code.
- iii. Karimangalam Police Station Crime No.169/2014 registered under Section 392 of Indian Penal Code.

3. Further, it is averred in the affidavit that on 12.01.2017 at about 11.00 hrs, one Balamurugan, S/o.Chinnthambi, as de facto complainant has given a complaint in Karimangalam Police Station against the detenu, wherein, it is alleged to the effect that in the place of occurrence, the detenu has avulsed a sum of Rs.150/- from the shirt pocket of the de facto complainant and ultimately, threatened him and at such circumstances, a case has been registered in Crime No.22/2017 under Sections 392 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 that the detenu is a habitual offender and ultimately, branded him as goonda by 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, a detailed counter has been filed, wherein, it has been contended inter alia to the effect that most of the averments made in the petition are false. The Sponsoring Authority has supplied all the materials to the Detaining Authority. The Detaining Authority after perusing all the materials, has arrived at a subjective satisfaction to the effect that the detenu is a habitual offender and ultimately, passed the impugned Detention Order and the same does not call for any interference and therefore, the present petition deserves to be dismissed.

6. Learned counsel appearing for the petitioner has contended to the effect that on the side of the petitioner, a representation has been submitted to the concerned authorities. 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 also equally contended to the effect that the representation submitted by the petitioner has been disposed of without delay and therefore, the contention urged 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, 3 clear working days are available. Likewise, in between column Nos.12 and 13, 28 clear working days are available and no explanation has been given on the side of the respondents 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 16.02.2017 passed in SC.No.06/2017 by the Detaining Authority against the detenu by name, Marimuthu @ Viji, aged 26 years, S/o.Murugesan, 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-VIII)

True Copy

Sub-Assistant Registrar

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To

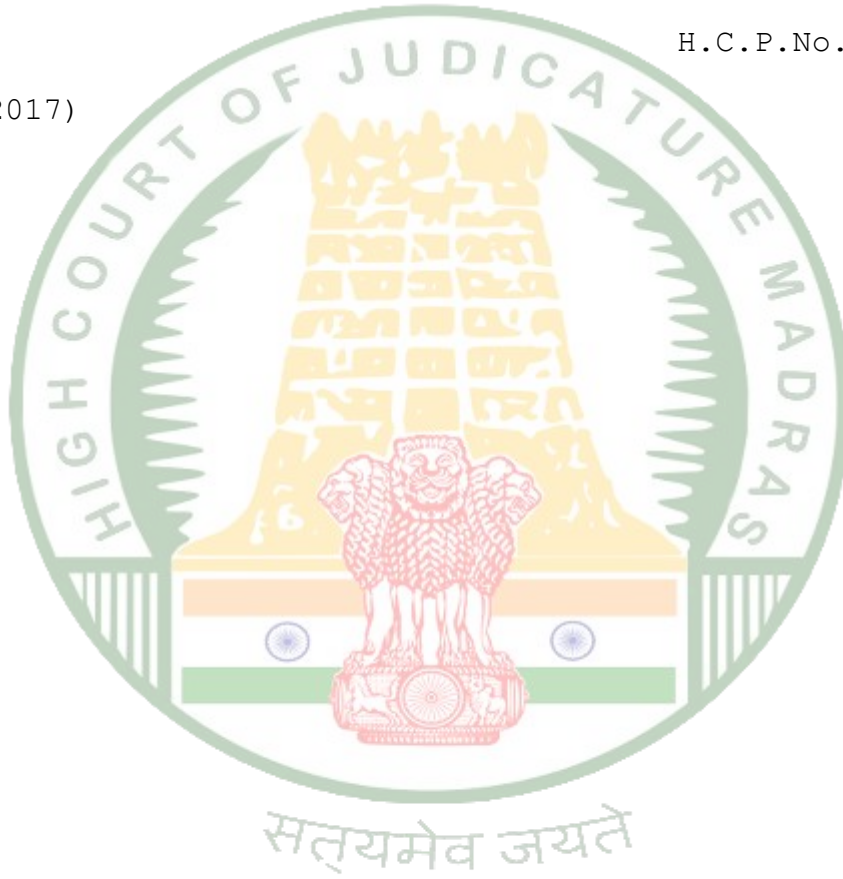
- 1.The Joint Secretary to Government of Tamil Nadu,
Public [Law and Order] Department,
Secretariat, Chennai-9.
- 2.The Secretary to Government,
Government of Tamil Nadu,
Home, Prohibition and Excise Department,
Secretariat, Chennai-9.
- 3.The District Collector and
District Magistrate, Dharmapuri.

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

5.The Public Prosecutor,
High Court, Madras.

H.C.P.No.505 of 2017

SP(07/08/2017)



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