

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 18.08.2017

CORAM

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

H.C.P.No.506 of 2017

Gowri

.. Petitioner

Vs

1. The State of Tamil Nadu
Rep. By the Principal Secretary to Government
Home, Prohibition and Excise Department
Fort St. George
Chennai - 600 009
2. The District Collector and District Magistrate
Vellore
Vellore District
3. The Superintendent
Central Prison
Vellore
Vellore District
4. The Inspector of Police
Arakkonam Taluk Police Station
Arakkonam Taluk
Vellore District

.. 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 in C3.D.O.No.18/2017 dated 13.02.2017 passed by the second respondent herein and quash the same and consequently direct the fourth respondent herein to produce the body of the detenu Baswan, S/o.Mani, aged about 24 years, residing at No.28, Big Street, Minnal Colony-631 510, Arakkonam Taluk, Vellore District, now confined in Central Prison, Vellore before this Court and set him at liberty.

For Petitioner : Mr.S.Arunkumar
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.18/2017 dated 13.02.2017, against the detenu by name, Baswan, aged 24 years, S/o.Mani, No.28, Prabakaran Street, Minnal Colony, Minnal Post, Nemili Taluk, Vellore District and quash the same.

2. The Inspector of Police, Arakkonam Taluk 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) Arakkonam Taluk Police Station, Crime No.102 of 2016, under Sections 341, 294(b), 323, 506(i) of Indian Penal Code; and

ii) Arakkonam Taluk Police Station, Crime No.411 of 2016, under Sections 147, 294(b), 323 and 506(ii) of Indian Penal Code; and

3. Further, it is averred in the affidavit that on 05.12.2016 one Selvam, aged 37 years, S/o.Gopi, as defacto complainant, has given a complaint in Arakkonam Taluk Police Station, wherein it is averred to the effect that the detenu and others have formed unlawful assembly in the place of occurrence and indiscriminately attacked one Logesh and due to their overt acts, he passed away and further they have also attacked the defacto complainant and others with an intention to murder them. Under Such circumstance, a case has been registered in Crime No.562 of 2016, under Sections 147, 148, 294(b), 323, 307 and 302 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 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 mother of the detenu, as petitioner.

5. On the side of the respondents, counter has not been filed. Under such circumstance, this Habeas Corpus Petition is disposed of on merits on the basis of available records.

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. The learned Additional Public Prosecutor has contended that the representation submitted on the side of the detenu has been duly 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, 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 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 13.02.2017 passed in C3.D.O.No.18 of 2017 by the second respondent against the detenu by name, Baswan, aged 24 years, S/o.Mani, No.28, Prabakaran Street, Minnal Colony, Minnal Post, Nemili Taluk, Vellore 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(CCC)

True Copy

Sub-Assistant Registrar

सत्यमेव जयते

gpa

To

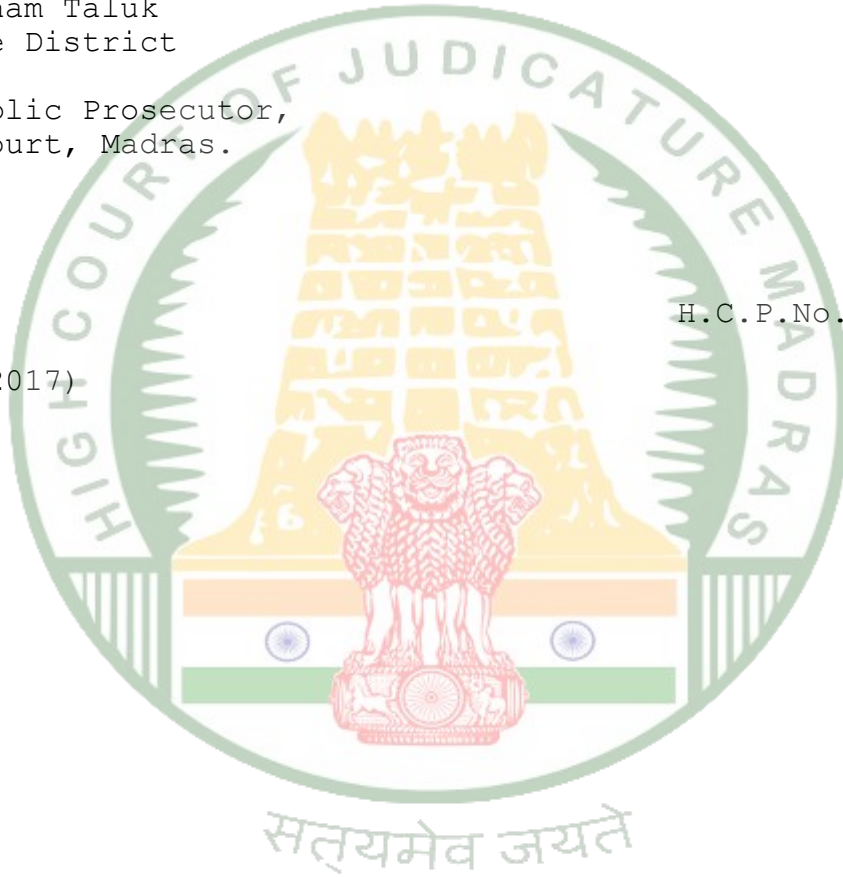
1. The Joint Secretary to Government of Tamil Nadu,
Public [Law and Order] Department,
Secretariat, Chennai-9.
2. The Principal Secretary to Government
Home, Prohibition and Excise Department
Fort St. George
Chennai - 600 009

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3. The District Collector and District Magistrate
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High Court, Madras.

VSN(CO)
sp(18/08/2017)

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