

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 19.09.2017

CORAM

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

H.C.P.No.512 of 2017

Sivapraksham

.. Petitioner

Vs

1.The Government Secretary (Home),  
Prohibition and Excise Department  
Secretariat, Chennai-600 009.

2.The District Collector and  
Executive Magistrate  
Cuddalore District  
Cuddalore

... Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS, calling for the records relating to the detenu's detention order passed by the 2nd respondent in C3/D.O/04/2017 dated 24.02.2017 and set aside the same and produce the detenu Sivaraman, Son of Chinnadurai , aged about 35 years, now detained in Central Prison, Cuddalore, before this Court and set him at liberty forthwith.

For Petitioner : Mr.Ilayaraja Kandasamy

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 C3/D.O/04/2017 dated 24.02.2017 by the Detaining Authority against the detenu by name, Sivaraman, aged 35 years, S/o.Chinnadurai, No.6/18, West Street, Chinnakappankulam, Vridhchalam Taluk, Cuddalore District and quash the same.

2. The Inspector of Police, Neyveli Town 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) Neyveli Township Police Station, Crime No.129/2014, registered under Sections 392 IPC, altered to Sections 451, 392 r/w.397 of Indian Penal Code;

ii) Neyveli Township Police Station, Crime No.97/2016, registered under Section 379 of Indian Penal Code;

iii) Neyveli Township Police Station, Crime No.159/2016, registered under Section 379 of Indian Penal Code;

iv) Neyveli Township Police Station, Crime No.296/2016, registered under Section 379 of Indian Penal Code; and

v) Neyveli Township Police Station, Crime No.330/2016, registered under Section 379 of Indian Penal Code;

3. Further it is averred in the affidavit that on 06.02.2017, at about 16.00 hours, one Umamaheswaran, S/o.Arumugam, residing at No.173A, Type-I Quarters, Block 5, Neyveli-3, as defacto complainant, has given a complaint in Neyveli Town Police Station, wherein it is alleged to the effect that the detenu, under the guise of a police constable, has deterred the vehicle of the defacto complainant and demanded all documents. The defacto complainant has produced all the documents. But, subsequently, the detenu has demanded a sum of Rs.5000/-. Since the defacto complainant has failed to part with the money, he snatched a gold chain weighing 8 gms from him. Under such circumstances, a case has been registered in Crime No.30 of 2017 under Section 392 of the 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 materials, 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 brother 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 materials on record.

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

7. Learned Additional Public Prosecutor has contended that the representations submitted on the side of the detenu are 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 is clearly stated that in respect of first representation, in between column Nos.7 to 9, 8 clear working days are available and in between column Nos.12 and 13, 37 clear working days are available. Likewise, in respect of second representation, in between column Nos.7 to 9, 4 clear working days are available and in between column Nos.12 and 13, 27 clear working days are available and no explanation has been given on the side of the respondents with regard to such delay 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 24.02.2017 passed in C3/D.O/04/2017 by the Detaining Authority against the detenu by name, Sivaraman, aged 35 years, S/o.Chinnadurai is quashed and directed to set him at liberty forthwith, unless he is required to be incarcerated in any other case.

Sd/-  
Assistant Registrar

//True Copy//

Sub Assistant Registrar

gpa

To

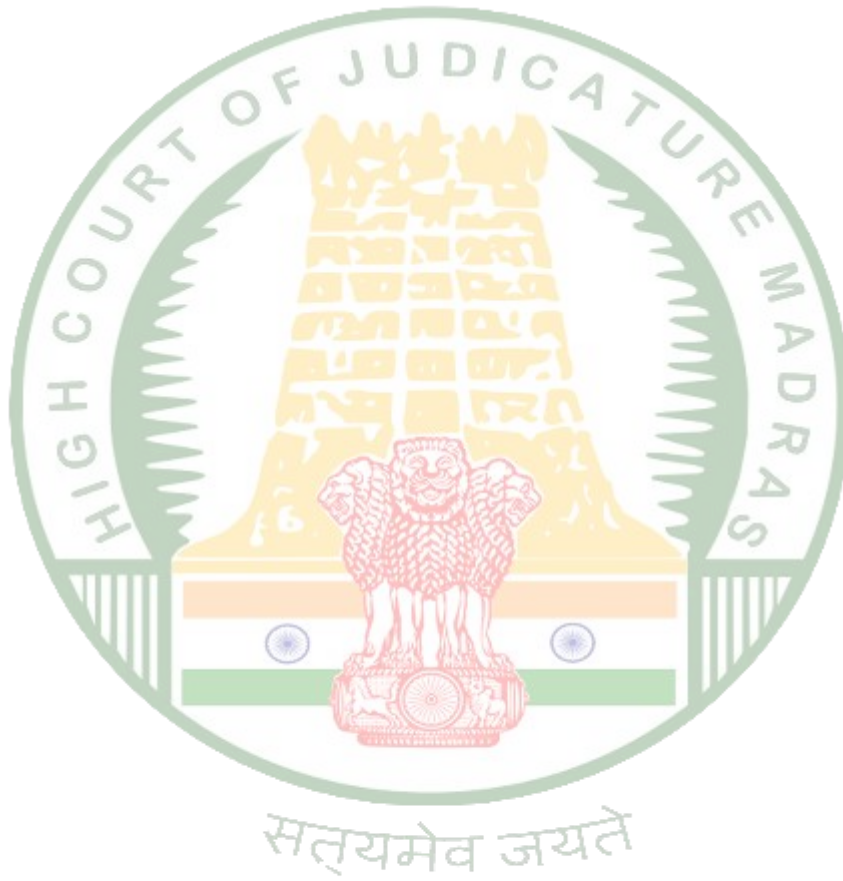
- 1.The Joint Secretary to Government of Tamil Nadu,  
Public [Law and Order] Department,  
Secretariat, Chennai-9.
- 2.The Government Secretary (Home),  
Prohibition and Excise Department  
Secretariat, Chennai-600 009.
- 3.The District Collector and  
Executive Magistrate  
Cuddalore District  
Cuddalore

4.The Superintendent  
Central Prison  
Cuddalore

5.The Public Prosecutor,  
High Court, Madras.

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GN(19/09/2017)



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