

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 31.08.2017

CORAM

THE HON'BLE Mr.JUSTICE A.SELVAM
and
THE HON'BLE Mr.JUSTICE N.AUTHINATHAN

H.C.P.No.519 of 2017

Thenmozhi

.. Petitioner

Vs

1.The District Magistrate & District Collector
Dharmapuri District
Dharmapuri

2. Government of Tamil Nadu
Rep. by its Secretary
Prohibition & Excise Dept.
Fort St. George
Chennai-9

.. 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 dated 22.02.2017 passed by the first respondent in S.C.No.8 of 2017 and quash the same and consequently direct the respondents herein to produce the detenu K.Jagadeesan, son of Koneri Gounder, aged 46 years, now detained in Central Prison, Salem before this Court and set him at liberty.

For Petitioner : Mr.J.Bharathiraja

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 S.C.No.8 of 2017 dated 22.02.2017 by the Detaining Authority against the detenu by name, Jagadeesan, aged 46 years, S/o.Koneri Gounder, No.20/130-A, Therpettai Street, Karimangalam, Karimangalam Taluk, Dharmapuri District and quash the same.

2. The Inspector of Police, Prohibition Enforcement Wing, Harur, 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) Dharmapuri Prohibition Enforcement Wing, Crime No.232 of 2010, registered under Sections 4(1)(a) r/w.4(1-A) of TNP Act @ to Section 4(1)(a) of TNP Act, 1937.

ii) Krishnagiri Prohibition Enforcement Wing, Crime No.702 of 2010, registered under Sections 4(1)(aaa) r/w.4(1-A) of TNP Act, 6,7 of TNRS Rules 2000, 66 of TNE Act and Sections 468, 471, 420 of Indian Penal Code; and

iii) Kondalampatti Prohibition Enforcement Wing, Crime No.32 of 2017, registered under Sections 4(1)(aaa),4(1-A) of TNP Act and 5,6 of TNRS Rules 2000, r/w.468 and 470 of Indian Penal Code.

3. Further it is averred in the affidavit that on 30.01.2017, the Inspector of Police, Prohibition Enforcement Wing, Harur and others have watched prohibition offences. At that time, they intercepted a TATA Sumo, wherein they found some illicit arrack and after observing due formalities, a case has been registered against the detenu and others in Crime No.109 of 2017 registered under Sections 4(1)(a) r/w. 4(1-A) of Tamil Nadu Prohibition Act, 1937, subsequently altered into section 4(1)(a) r/w. 4(1-A) of Tamil Nadu Prohibition Act, 1937 and 6, 7 of Tamil Nadu Rectified Spirit Rules, 2000 and into 4(1)(a) r/w.4 (1-A) of Tamil Nadu Prohibition Act, 1937 6, 7 of Tamil Nadu Rectified Spirit Rules, 2000 and Sections 468, 470 and 420 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 "Bootlegger" by way of passing the impugned Detention Order and in order to quash the same, the present petition has been filed by the son of the detenu, as petitioner.

5. On the side of the respondents, a counter has been filed, wherein, it has been contended to the effect that most of the averments made in the petition are false. The Sponsoring Authority has submitted all the materials to the Detaining Authority. The Detaining Authority, after perusing the same and other connected papers, has derived a subjective satisfaction to the effect that the detenu is a habitual offender and ultimately, branded him as "Bootlegger" by way of passing the impugned Detention Order and therefore, the present petition

deserves to be dismissed.

6. Learned counsel appearing for the petitioner has contended to the effect that the detenu has been supplied with a booklet, which contains copies of vital documents and most of the copies are not readable and the same would affect the rights of the detenu and therefore, the Detention order in question is liable to be quashed.

7. Learned Additional Public Prosecutor has contended that the copies available in the booklet are really readable and therefore, the contention put forth on the side of the petitioner is liable to be rejected.

8. In fact, this Court has perused the entire booklet and as rightly pointed out on the side of the petitioner, the copies of most of the vital documents are not readable 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 22.02.2017 passed in S.C.No.08/2017 by the first respondent against the detenu by name, Jagadeesan, aged 46 years, S/o.Koneri Gounder, No.20/130-A, Therpettai Street, Karimangalam, Karimangalam Taluk, Dharmapuri District is quashed and directed to set him at liberty forthwith unless he is required to be incarcerated in any other case.

Sd/-
Asst.Registrar (CS VII)

/true copy/

Sub Asst. Registrar

To

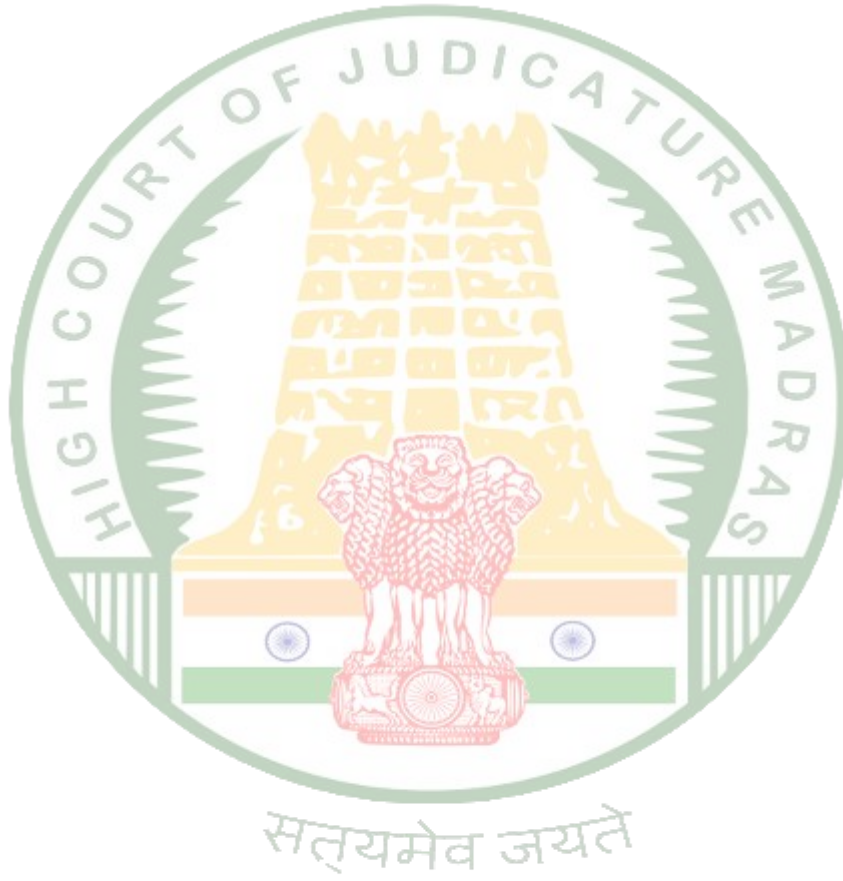
1. The Joint Secretary to Government of Tamil Nadu,
Public [Law and Order] Department,
Secretariat, Chennai-9.
2. The District Magistrate & District Collector
Dharmapuri District
Dharmapuri
3. Government of Tamil Nadu
Rep. by its Secretary
Prohibition & Excise Dept.
Fort St. George
Chennai-9

4. The Superintendent,
Central Prison, Salem(In duplicate)

5. The Public Prosecutor,
High Court, Madras.

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