

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 28.08.2017

CORAM

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

H.C.P.No.534 of 2017

Muthulakshmi

.. Petitioner

Vs

1.The State of Tamil Nadu  
Rep. by Secretary to  
the Government Home,  
Prohibition and Excise Department  
Fort St. George  
Chennai- 600 009

2.The Commissioner of Police  
Greater Chennai

.. 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 passed by the second respondent pertaining to the order made in Memo No.56/BCDFGISSSV/2017 dated 13.02.2017 and quash the same and direct the respondent to produce the detenu Raja @ Rajabhai, Son of Venkatesan, aged about 23 years, who is detained at Central Prison, Puzhal before this Court and set him at liberty.

For Petitioner : Mr.J.William Shakeshpere

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 BCDFGISSSV No.56/2017 dated 13.02.2017, against the detenu by name, Raja @ Rajabhai, aged 23 years, S/o.Venkatesan, residing at No.17, 4th Block, Ezhil Nagar, Chennai - 600 097 and quash the same.

2. The Inspector of Police, J-11 Kannaki Nagar 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) J-10 Chemmanchery Police Station, Crime No.749 of 2016, registered under Sections 461 and 380 of Indian Penal Code;

ii) J-10 Chemmanchery Police Station, Crime No.818 of 2016, registered under Sections 461 and 380 of Indian Penal Code; and

iii) E-3, Teynampet Police Station, Crime No.1052 of 2016, registered under Sections 294(b), 323, 384 and 506(ii) of Indian Penal Code.

3. Further it is averred in the affidavit that one Venkatesan, aged 40 years, S/o.Thambusamy, residing at No.81, Gangaianman Koil Street, Karapakkam, Chennai -97, as defacto complainant, has given a complaint wherein it is averred to the effect that in the place of occurrence, the detenu, by showing a deadly weapon, has forcibly taken a sum of Rs.450/- from the custody of the defacto complainant and also threatened him. Under such circumstance, a case has been registered in Crime No.1442 of 2016 under Sections 341, 294 (b), 392, 336, 427, 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 mother of the detenu, as petitioner.

5. On the side of the respondents, counter has not been filed. Under such circumstances, the present 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. 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 put forth 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 respect of first representation, in between column Nos.7 and 9, 3 clear working days are available and in between column Nos. 12 and 13, 19 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 BCDFGISSSV No.56 of 2017 by the second respondent against the detenu by name, Raja @ Rajabhai, aged 23 years, S/o.Venkatesan, residing at No.17, 4th Block, Ezhil Nagar, Chennai - 600 097 is quashed and directed to set him at liberty forthwith unless he is required to be incarcerated in any other case.

Sd/-  
Assistant Registrar(CS V)

//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 Secretary to the Government  
Home, Prohibition and Excise Department  
Secretariat  
Chennai- 600 009

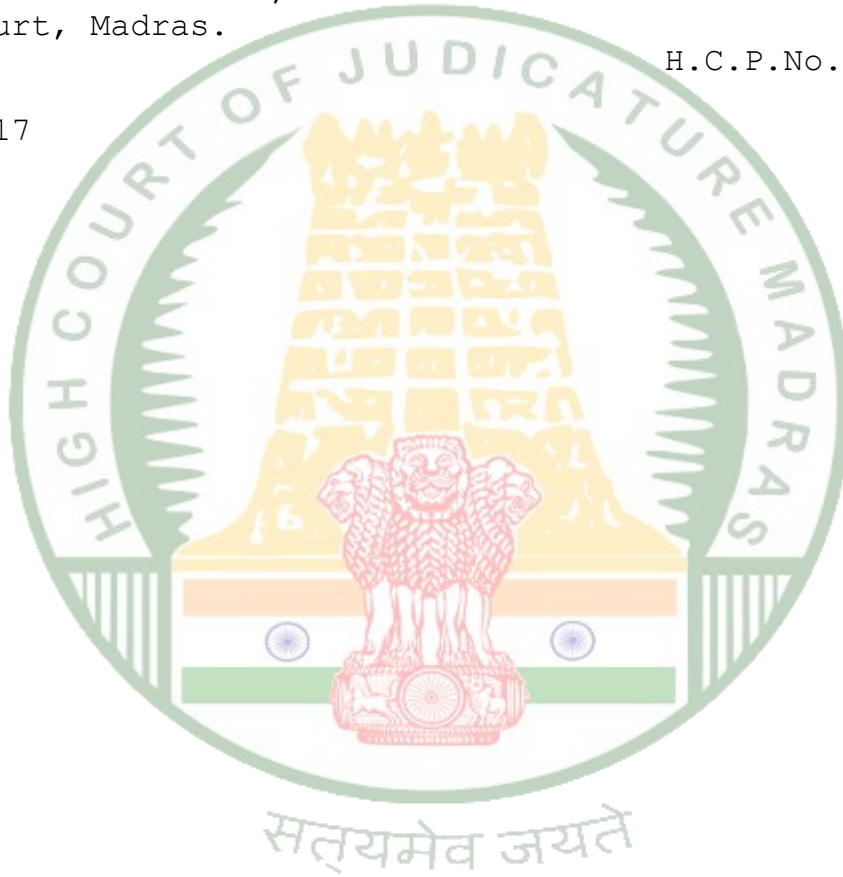
3. The Commissioner of Police  
Greater Chennai, Vepery Chennai-7.

4.The Superintendent  
Central Prison  
Puzhal, Chennai

5.The Public Prosecutor,  
High Court, Madras.

H.C.P.No.534 of 2017

EU 29.08.17



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