

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.07.2017

CORAM:

THE HON'BLE MR.JUSTICE A.SELVAM  
AND  
THE HON'BLE MR.JUSTICE P.KALAIYARASAN

H.C.P.No.541 of 2017

Tmt.Selva Pushpam

... Petitioner

vs.

1. The State of Tamil Nadu,  
rep.by its Secretary to Government,  
Home, Prohibition and Excise Department,  
Fort St.George, Chennai-9.

2. The Commissioner of Police,  
Greater Chennai Police,  
Vepery, Chennai-600 007

... Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of habeas corpus calling for the entire records, relating to order passed by the second respondent order in Memo No.81/BCDFGISSV/2017 dated 28.03.2017 and quash the same and produce the detenu Thiru Jayapal, Son of Thiru Palanivel, who is detained in Central Prison, Puzhal, before this Court and set him at liberty.

For Petitioner : Mr.T.Sundaravadanam

For Respondents : Mr.V.M.R.Rajentren, Addl.P.P

ORDER

(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 detention order, dated 28.03.2017, passed in BCDFGISSSV No.81 of 2017, by the detaining authority, who has been arrayed as the second respondent herein, against the detenu, by name Jayapal, Son of Palanivel and quash the same.

2. The Inspector of Police, Central Crime Branch-I, as sponsoring authority, has submitted an affidavit to the detaining authority, wherein it is averred that on 11.03.2017, the concerned Sub-Inspector of Police and other Police officials have watched a video piracy in Barma Bazaar area and ultimately found that the detenu was in possession of huge numbers of DVDs relating to recently released Tamil films and other Tamil films without any authority/licence. Under the said circumstances, a case has been registered, in Crime No.70 of 2017, under Sections 52(A), 68(A), 51 read with Sec.63(a) and 65 of Copy Rights Act, 1957 and 292(2)(a) of the Indian Penal Code and ultimately requested the detaining authority to invoke Act 14 of 1982 against the detenu.

3. The detaining authority, after considering the averments made in the affidavit and other connected documents and also after considering the gravity of offences alleged to have been committed by the detenu, has branded him as Video Pirator, by way of 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.

4. On the side of the respondents, counter has been filed, wherein it is averred to the effect that most of the averments made in the petition are false; the sponsoring authority has furnished all the materials to the detaining authority and the detaining authority, after perusing all the materials, has derived subjective satisfaction to the effect that the detenu has committed the offences mentioned in the crime and ultimately branded him as video pirator and therefore, the detention order in question does not require any interference and altogether the present petition deserves to be dismissed.

5. The learned counsel appearing for the petitioner has contended to the effect that on the side of the detenu, 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.

6. 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.

7. On the side of the respondents, a proforma has been submitted, wherein it has been clearly stated that in between Column Nos.12 and 13, twenty clear working days are available

and no explanation has been given on the side of the respondents with regard to such huge delay in disposing of the representation 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.

8. In fine this Habeas Corpus Petition is allowed. The detention order dated 28.03.2017, passed in BCDFGISSSV No.81 of 2017, by the detaining authority against the detenu, by name Jayapal, son of Palanivel, is quashed and the respondents are directed to set him at liberty forthwith, unless he is required to be incarcerated in connection with some other case.

Sd/-  
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

msk

To

1. The Secretary to Government,  
Home, Prohibition and Excise Department,  
Fort St.George, Chennai-9.
2. The Commissioner of Police,  
Greater Chennai Police,  
Vepery, Chennai-600 007
3. The Superintendent,  
Central Prison, Puzhal, Chennai
4. The Joint Secretary to Government,  
Public (Law & Order),  
Fort St.George, Chennai-9.
5. The Public Prosecutor,  
High Court, Madras

+1cc to M/S.T.Sundaravadanam, Advocate Sr. 46628

H.C.P.No.541 of 2017

SK(CO)  
VR(05/07/2017)