

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 10.08.2017

CORAM

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

H.C.P.No.547 of 2017

Hari

.. Petitioner

Vs

1.The Secretary to the Government,
Department of Consumer Affairs,
Government of India,
Krishi Bhavan,
New Delhi-110 001.

2.The Secretary to the Government,
Co-operation, Food & Consumer Protection Department,
Secretariat, Chennai-600 009.

3.The District Collector and District Magistrate,
Kancheepuram District,
Kancheepuram.

... Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS to call for the records in connection with the order of detention passed by the 3rd respondent in D.O.No.22/2017 dated 17.03.2017 against the petitioner's father Sundarraaj, aged 58 years, S/o.Govindan, who is confined at Central Prison, Vellore and set aside the same and direct the respondents to produce the detenu before this Hon'ble Court, set him at liberty.

For Petitioner : Mr.S.Senthivel

For R1 : Mr.S.Arockiam,
Central Govt. Standing Counsel

For R2 and R3 : 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 D.O.No.22/2017 dated 17.03.2017 by the Detaining Authority against the detenu by name, Sundarraaj, aged 58 years, S/o.Govindan, residing at No.20B, 1, Krishnan Street, Pillaiyarpalayam Village, Kancheepuram Taluk, Kancheepuram District and quash the same.

2. The Inspector of Police, Civil Supplies CID, Kancheepuram 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. Civil Supplies CID, Kancheepuram Unit Crime No.87/2015 registered under Section 6[4] of Tamil Nadu Scheduled Commodities [Regulation and Distribution of Card System] Order, 1982 r/w 7[1][a][ii] of Essential Commodities Act, 1955.
- ii. Civil Supplies CID, Kancheepuram Unit Crime No.59/2016 registered under Section 6[4] of Tamil Nadu Scheduled Commodities [Regulation and Distribution of Card System] Order, 1982 r/w 7[1][a][ii] of Essential Commodities Act, 1955.

3. Further, it is averred in the affidavit that on 07.03.2017, one Sathiyalingam, Inspector of Police, Civil Supplies CID, Kancheepuram and others have made a vehicle check up and they intercepted the vehicle bearing registration No.TN50Y 4761 Tata Ex 207 and ultimately found that the detenu and others have smuggled PDS rice without having license or authority and after observing formalities, registered a case in Crime No.38 of 2017 under Section 6[4] of Tamil Nadu Scheduled Commodities [Regulation and Distribution of Card System] Order, 1982 r/w 7[1][a][ii] of Essential Commodities Act, 1955 and ultimately, requested the Detaining Authority to invoke Act 7 of 1980 against the detenu.

4. The Detaining Authority after considering the averments made in the affidavit and other connected documents, has arrived at a subjective satisfaction to the effect that the detenu is a habitual offender and ultimately, branded him as Black Marketeer by 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. In the counter filed on the side of the 3rd respondent, it is averred to the effect that most of the averments made in the petition are false. The Sponsoring Authority has supplied all the materials to the Detaining Authority. The Detaining Authority after perusing all the materials and other connected records, has rightly branded the detenu as Black Marketeer by way of passing the impugned Detention Order and the same does not require any interference and therefore, the present petition deserves to be dismissed.

6. Learned counsel appearing for the petitioner has contended that on the side of the detenu, a representation has been submitted to the concerned authorities on 11.04.2017. Even though, the same has been received on 13.04.2017, no final order has been passed. Under such circumstances, the Detention Order in question is liable to be quashed.

7. Learned Additional Public Prosecutor has submitted the concerned proforma, wherein, it has been explicitly stated to the effect that on the side of the detenu, a representation has been submitted to the concerned authorities and the concerned authorities have also received the same. But unfortunately, no final order has been passed. Since, no final order has been passed by the concerned authorities, 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 petition is allowed. The Detention Order dated 17.03.2017 passed in D.O.No.22/2017 by the Detaining Authority against the detenu by name, Sundarraj, aged 58 years, S/o.Govindan, is quashed and directed to set him at liberty forthwith, unless he is required to be incarcerated in any other case.

Sd/-
Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

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To

1.The Joint Secretary to Government of Tamil Nadu,
Public [Law and Order] Department,
Secretariat, Chennai-9.

2.The Secretary to the Government,
Department of Consumer Affairs,
Government of India, Krishi Bhavan,
New Delhi-110 001.

3.The Secretary to the Government,
Co-operation, Food & Consumer Protection Department,
Secretariat,
Chennai-600 009.

4.The District Collector and District Magistrate,
Kancheepuram District,
Kancheepuram.

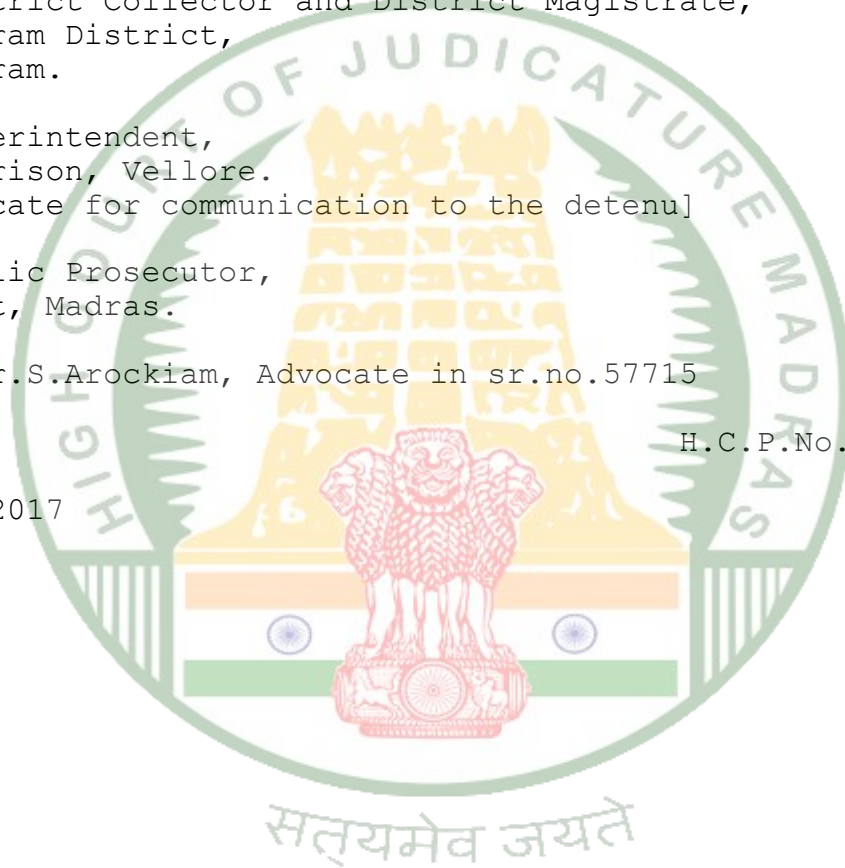
5.The Superintendent,
Central Prison, Vellore.
[in duplicate for communication to the detenu]

6.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.S.Arockiam, Advocate in sr.no.57715

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NR 10/08/2017



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