

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 12.09.2017

CORAM

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

H.C.P.No.563 of 2017

Thanalakshmi

.. Petitioner

Vs

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

2.The Commissioner of Police,
Chennai City Police, Greater Chennai,
Commissioner Office, Vepery,
Chennai-7.

.. 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 impugned order in No.118/BCDFGISSSV/2017 dated 04.04.2017 on the file of the 2nd respondent herein and set aside the same as illegal and direct the respondents to produce the detenu Ruban, aged 44 years, S/o.Venugopal, now confined at Central Prison, Puzhal, Chennai, before this Hon'ble Court and set him at liberty.

For Petitioner : Mr.S.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 No.118/BCDFGISSSV/2017 dated 04.04.2017 by the Detaining Authority against the detenu by name, Ruban, aged 44 years, S/o.Venugopal, residing at Ganapathi Nagar, Arcot Road, Porur, Chennai-116 and quash the same.

2. The Inspector of Police, T-15 SRMC Police Station as Sponsoring Authority has submitted an affidavit to the Detaining Authority, wherein, it is averred to the effect that one Selvamareeswari, aged 23 years, W/o.Shantanu, residing at No.7, Ganapathy Nagar, Porur, Chennai-116, as de facto complainant has given a complaint, wherein, it is alleged that in the place of occurrence, the present detenu and others have brutally attacked the father-in-law of the petitioner and due to their overt act, he passed away and therefore, a case has been registered in Crime No.305/2017 under Sections 341, 302 and 506 [ii] 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, has arrived at a subjective satisfaction to the effect that the detenu has committed a grave offence 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 wife of the detenu as petitioner.

4. On the side of the respondents, counter has not been filed and therefore, the present Habeas Corpus Petition is disposed of on merits on the basis of available materials on record.

5. 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 are not disposed of without delay and therefore, the Detention Order in question is liable to be quashed.

6. Per contra, learned Additional Public Prosecutor has contended to the effect that the representations submitted on the side of the detenu have been duly disposed of without delay and therefore, the contention urged on the side of the detenu is liable to be rejected.

7. 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.12 and 13, 19 clear working days are available. Likewise, in respect of second representation, in between column Nos.7 to 9, 3 clear working days are available and in between column Nos.12 and 13, 1 clear working day is available and no explanation has been given on the side of the respondents with regard to such huge 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.

8. In fine, this petition is allowed. The Detention Order

dated 04.04.2017 passed in No.118/BCDFGISSSV/2017 by the Detaining Authority against the detenu by name, Ruban, aged 44 years, S/o.Venugopal 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 III)

/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 Government,
Department of Prohibition and Excise [Home],
Fort St. George, Chennai-9.

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

4.The Superintendent,
Central Prison, Puzhal, Chennai.
[in duplicate for communication to the detenu]

5.The Public Prosecutor,
High Court, Madras.

H.C.P.No.563 of 2017

SCD(CO)
NR 12/09/2017

सत्यमेव जयते

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