

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.578 of 2017

Sabaritha

.. Petitioner

Vs

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

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

.. 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 in Memo No.115/BCDFGISSSV/2017 dated 04.04.2017 passed by the 2nd respondent under the Tamil Nadu Act 14 of 1982 and set aside the same and direct the respondent to produce the petitioner's friend Pasupathy S/o.Nagaraj, aged about 23 years, the detenu, now confined in Central Prison, Puzhal, Chennai before this Court and set the petitioner's friend at liberty.

For Petitioner : Mr.K.Ilayaraja

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 Memo No.115/BCDFGISSSV/2017 dated 04.04.2017, against the detenu by

name, Pasupathy, aged 23 years, S/o.Nagaraj, near Vinayaga ITI, Kesavapuram, Minjur, Tiruvallur District and quash the same.

2. The Inspector of Police, M7 Manali Town 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) E3 Minjur Police Station, Crime No.449 of 2016, registered as Man Missing and altered into Sections 147, 148, 302 and 201 of Indian Penal Code; and

ii) M7 Manali New Town Police Station, Crime No.430 of 2017, registered under Sections 341, 294(b), 384 and 506(ii) of Indian Penal Code.

3. Further it is averred in the affidavit that on 13.03.2017, one Prakash, S/o.Durai, No.28, Lakshmi Nagar, Old Nappalayam, Chennai - 103, as defacto complainant, has given a complaint against the detenu wherein it is alleged to the effect that in the place of occurrence, the detenu has unlawfully detained the defacto complainant and forcibly taken a sum of Rs.1000/- from his custody and consequently, a case has been registered in M7 Manali New Town Police Station in Crime No.434 of 2017 registered under Sections 341, 294(b), 336, 427, 392, 506(ii) r/w. Section 397 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 friend 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 materials available 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 submitted, 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. It is seen from the records that on 17.04.2017, the detenu has given a proper representation to the concerned authorities. But, so far the same has not been disposed of. Considering the above said factual circumstance, the relief sought in the petition can be granted.

9. In fine, this Habeas Corpus Petition is allowed and the Detention Order dated 04.04.2017 passed in Memo No.115/BCDFGISSSV/2017 by the second respondent against the detenu by name, Pasupathy, aged 23 years, S/o.Nagaraj, near Vinayaga ITI, Kesavapuram, Minjur, Tiruvallur 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 V)

/true copy/

Sub Asst. 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.

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NR 29/08/2017