

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 01.09.2017

CORAM

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

H.C.P.No.579 of 2017

Basira

.. 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,
O/o.The Commissioner of Police,
[Goonda Section]
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 petitioner's detention order under the Tamil Nadu Act 14/1982, vide BCDFGISSSV No.80/2017 dated 28.03.2017 on the file of the 2nd respondent to produce the body of detenu Mohammed Yasin, aged 40 years, S/o.Kadhar Moideen, who was confined in Central Prison, Puzhal, Chennai before this Court and set him at liberty forthwith.

For Petitioner : Mr.A.K.M.Samsuhihar

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 BCDFGISSSV No.80/2017 dated 28.03.2017 by the Detaining Authority against the detenu by name, Mohammed Yasin, aged 40 years, S/o.Kadhar Moideen, No.13, A-Block, Classic Apartment, Cemetery Road, Old

Washermenpet, Chennai-21 and quash the same.

2. The Inspector of Police, Central Crime Branch, Team X, Video Piracy Cell, Greater Chennai Police, Egmore, Chennai-8, as Sponsoring Authority has submitted an affidavit to the Detaining Authority, wherein, it is averred to the effect that on 10.03.2017, the Sub-Inspector of Police by name, G.Agoram and others have made conducted video piracy check up and between the course of their check up, they found the detenu in possession of DVDs/CDs without copyright and consequently, a case has been registered in Crime No.68/2017 under Sections 52[A], 68[A], 51 r/w. 63[a] and 65 of the Copy Right 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 papers, has derived at a subjective satisfaction to the effect that the detenu has committed the offence mentioned in the affidavit and ultimately, branded him as "Video Pirate" 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. Under such circumstances, the present petition is disposed of on merits on the basis of the 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 been disposed of without delay and therefore, the Detention Order in question is liable to be quashed.

6. Learned Additional Public Prosecutor has contended that the representations submitted on the side of the detenu are duly disposed of without delay and therefore, the contention put forth 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 is clearly stated that in respect of first representation, in between column Nos.11 and 12, 20 clear working days are available. Likewise, in respect of second representation, in between column Nos.11 and 12, 23 clear working days are 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 28.03.2017 passed in BCDFGISSSV No.80/2017 by the Detaining Authority against the detenu by name, Mohammed Yasin, aged 40 years, S/o.Kadhar Moideen 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 IV)

//True Copy//

Sub Assistant Registrar

To

- 1.The Joint Secretary to Government of Tamil Nadu,
Public [Law and Order] Department,
Secretariat, Chennai-9.
- 2.The Secretary to Government,
Home, Prohibition and Excise Department
Fort St. George, Chennai-9.
- 3.The Commissioner of Police,
Greater Chennai,
O/o.The Commissioner of Police,
[Goonda Section]
Vepery, Chennai-7.
- 4.The Superintendent,
Central Prison, Puzhal, Chennai.
[in duplicate for communication to the detenu]
- 5.The Public Prosecutor, सत्यमेव जयते
High Court, Madras.

+1cc to Mr.A.K.H.Samsuniyar, Advocate, S.R.No.63155

CP(CO)
GN(01/09/2017)

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