

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 04.08.2017

CORAM

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

H.C.P.No.59 of 2017

Palaniammal

..Petitioner

Vs

1.The State of Tamil Nadu
Rep. By the Secretary to Government,
Home,Prohibition and Excise Department,
Fort St. George, Chennai-9.

2. The District Collector and
District Magistrate
Krishnagiri District
Krishnagiri

.. Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS, to call for the entire records connected with the order of the 2nd respondent herein S.C.No.59/2016 dated 13/12/2016 against the petitioner / detenu, namely Murugesan, Aged 36 years, S/o.Parasuraman, who is confined at Central Prison, Salem, set aside the same and consequently direct the respondents to produce the body and person of the detenu before this Court and set him at liberty forthwith.

For Petitioner : Mr.R.Muniayapparaj
for Mr.M.Rajendran

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 S.C.No.59/2016 dated 13.12.2016 by the Detaining Authority against the detenu by

name, Murugesan, Aged 36 years, S/o.Parasuraman, residing at Kullan Kottai Village, Karimangalam Taluk, Dharmapuri District and quash the same.

2. The Inspector of Police, Krishnagiri Taluk 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. Kaveripattinam Police Station, Crime No.177 of 2016, registered under Sections 454 and 380 of Indian Penal Code; and
- ii. Kaveripattinam Taluk Police Station, Crime No.224 of 2016, registered under Sections 397 and 506(ii) of Indian Penal Code.

3. Further it is averred in the affidavit that on 05.11.2016, one Chinnapaiyan, S/o.Chinnaraj residing at Bethathalappalli Village, Krishnagiri District, as defacto complainant, has given a complaint to the Sub-Inspector of Police, Krishnagiri Taluk Police Station, wherein it is stated that in the place of occurrence, by showing a deadly weapon, the accused avulsed a sum of Rs.1300/- and also created panic in the minds of the general public and consequently, a case has been registered in Crime No.716 of 2016 under Sections 392 r/w.397 and 506(ii) of Indian Penal Code and ultimately, requested the Detaining Authority to invoke Act 14 of 1982 against the detenu.

4. The Detaining Authority after considering 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 wife of the detenu, as petitioner.

5. Despite repeated adjournments, on the side of the respondents counter has not been filed counter. Under such circumstance, this Habeas Corpus Petition is disposed of on merits on the basis of available records.

6. 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. Learned Additional Public Prosecutor has contended that the representation given on the side of the detenu has been disposed of without delay. Under the said circumstances, the contention put forth on the side of the petitioner is liable to be rejected.

8. On the side of the respondents, a proforma has been submitted, wherein it has been clearly stated that in between column Nos.7 and 9, twenty seven clear working days are available and in between column Nos.12 and 13, 3 clear working days are available and no explanation has been given on the side of the respondents with regard to such 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.

9. In fine, this petition is allowed. The Detention Order dated 13.12.2016 passed in S.C.No.59/2016 by the Detaining Authority against the detenu by name, Murugesan, Aged 36 years, S/o.Parasuraman, residing at Kullam Kottai Village, Karimangalam Taluk, Dharmapuri 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 (CCC)

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

3. The District Collector and
District Magistrate
Krishnagiri District
Krishnagiri

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

5.The Public Prosecutor,
High Court, Madras.

+1cc to M/s.M.Rajendran,Advocate sr.55954

mp(co)
ss(4/8/2017)

H.C.P.No.59 of 2017