

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 06.09.2017

CORAM

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

H.C.P.No.608 of 2017

Ravi

.. Petitioner

Vs

1.State rep. by
The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai-9.

2.The Commissioner of Police,
Greater Chennai,
Chennai-7.

.. Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS, to direct the respondents to produce the detenu viz., Sathish, aged 26 years, S/o.Ravi, who is now detained in Central Prison, Puzhal, Chennai in pursuance of the detention order passed by the 2nd respondent dated 31.03.2017 in No.101/BCDFGISSSV/2017 before this Hon'ble Court, call for the records, set aside the order and set the detenu at liberty.

For Petitioner : Mr.R.Ganesh
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.101/BCDFGISSSV/2017 dated 31.03.2017 by the Detaining Authority against the detenu by name, Sathish, aged 26 years, S/o.Ravi, residing at No.69/4, Vanniyar Street, Korattur, Chennai-80 and quash the same.

2. The Inspector of Police, T-3 Korattur 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. T-3 Korattur Police Station Crime No.2024/2016 registered under Sections 341, 294[b], 326 and 506[ii] of the Indian Penal Code.
- ii. T-3 Korattur Police Station Crime No.103/2017 registered under Sections 341, 294[b], 323, 392 r/w 397 and 506[ii] of the Indian Penal Code.

3. Further, it is averred in the affidavit that on 11.01.2017, one Ravi, aged 22 years, S/o.Sekar, residing at No.2, Santhi Colony 2nd Main Road, Korattur, Chennai-80, as de facto complainant has given a complaint in T-3 Korattur Police Station that in the place of occurrence, the present detenu and others have unlawfully detained him and demanded money. Since the de facto complainant has refused to part with the money, the present detenu and others, by showing a knife has forcibly taken away a sum of Rs.400/- from the shirt pocket of the de facto complainant and also threatened him and further, they caused injuries on the person of the de facto complainant. Under such circumstances, a case has been registered in Crime No.115/2017 registered under Sections 341, 294[b], 427, 336, 392, 397, 307 and 506[ii] of the 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 arrived at 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 father of the detenu as petitioner.

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

6. Learned counsel appearing for the petitioner has contended to the effect that on the side of the detenu, a representation has been submitted to the concerned authorities and the same has not been disposed of without delay and therefore, the Detention Order in question is liable to be quashed.

7. Per contra, learned Additional Public Prosecutor has contended to the effect that the representation submitted on the side of the petitioner has been duly disposed of without delay and therefore, the contention urged 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 is clearly stated that in between column Nos.7 to 9, 3 clear working days are available and in between column Nos.12 and 13, 20 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.

9. In fine, this petition is allowed. The Detention Order dated 31.03.2017 passed in No.101/BCDFGISSSV/2017 by the Detaining Authority against the detenu by name, Sathish, aged 26 years, S/o.Ravi 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 II)

//True Copy//

Sub Assistant Registrar

gya

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,
Secretariat, Chennai-9.

3.The Commissioner of Police,
Greater Chennai,
Chennai-7.

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

5.The Public Prosecutor,
High Court, Madras.

+1 cc to M/s.R.Ganesh Advocate sr 64630

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