

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 18.08.2017

CORAM

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

H.C.P.No.624 of 2017

G.Vijiyashanthi ...Petitioner/Wife of the Detenue
Vs

1.The Principal Secretary to Government
Food and Consumer
Protection Department
2nd Floor, Namakkal Kavingar Maligai
Secretariat, Chennai - 9

2.The District Collector and
District Magistrate
Villupuram District
Villupuram

3.The Secretary to Government
Ministry of Consumer Affairs
Food and Public Distribution
(Department of Consumer Affairs)
Room No.270
Krishi Bhavan
New Delhi - 110 001

... Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS, to call for the records in connection with the order of detention passed by the second respondent dated 04.04.2017 in C2/9335/2017 against the petitioner's husband Ganapathi @ Bala Ganapathi, son of Murugesu Gounder, aged about 43 years, confined in Central Prison, Cuddalore set aside the same, produce the detenu before this Court and set him at liberty.

For Petitioner :Mr.V.Paarthiban

For Respondents:Mr.S.Arockiam
Central Govt. Standing Counsel
for R3
Mr.V.M.R.Rajentren
Addl. Public Prosecutor
for R1 and R2

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 C2/9335/2017 dated 04.04.2017, against the detenu by name, Ganapathi alias Balaganapathi, aged 43 years, S/o.Murugesu Gounder, No.7, Vivekanandhar Street, Tindivanam Town and Taluk, Villupuram District and quash the same.

2. The Civil Supply CID, Cuddalore Unit, as Sponsoring Authority, has submitted an affidavit to the Detaining Authority, wherein it is averred that on 28.01.2014, the Inspector of Police, Civil Supplies CID and other officials have conducted vehicle check up and ultimately found that 70 bags of PDS rice are smuggled by using a Eicher lorry and after observing due formalities, a case has been registered in Crime No.8 of 2014 under Sections 6(4) of TNSC (RDSCS) Order 1982 r/w.7 (1)(a)(ii) of EC Act, 1955 and ultimately requested the Detaining Authority to invoke the Prevention of Blackmarketing and Maintenance of Supplies of Essential Commodities Act, 1980 (Central Act 7 of 1980) against the detenu.

3. The Detaining Authority, after considering the averments made in the affidavit and other connected materials, has derived a subjective satisfaction to the effect that the detenu is a habitual offender and ultimately, branded her as "Black Marketer" 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. In the counter filed on the side of the respondents, it is averred that most of the averments made in the petition are false. The Sponsoring Authority has submitted all the relevant materials to the Detaining Authority and the Detaining Authority, after considering the materials supplied to him and other connected materials, has derived a subjective satisfaction to the effect that the detenu is habitual offender and has rightly branded him as "Black Marketer" by way of passing the impugned Detention Order and the same need not be quashed and therefore, the present petition deserves to be dismissed.

5. The learned counsel appearing for the petitioner has contended to the effect that on the side of the detenu, a representation has been given, but the same has not been disposed of without delay and therefore, the Detention Order in question is liable to be quashed.

6. 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 urged 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 has been clearly stated that in between column Nos.7 and 9, 8 clear working days are available and no explanation has been given on the side of the respondents with regard to such delay and that 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 Habeas Corpus Petition is allowed and the Detention Order dated 04.04.2017 passed in Detention Order No. C2/9335/2017 by the second respondent against the detenu by name, Ganapathi alias Balaganapathi, aged 43 years, S/o.Murugesu Gounder, No.7, Vivekanandhar Street, Tindivanam Town and Taluk, Villupuram 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 Principal Secretary to Government
Food and Consumer
Protection Department
2nd Floor, Namakkal Kavingar Maligai
Secretariat, Chennai - 9

3.The District Collector and
District Magistrate
Villupuram District
Villupuram

4.The Secretary to Government
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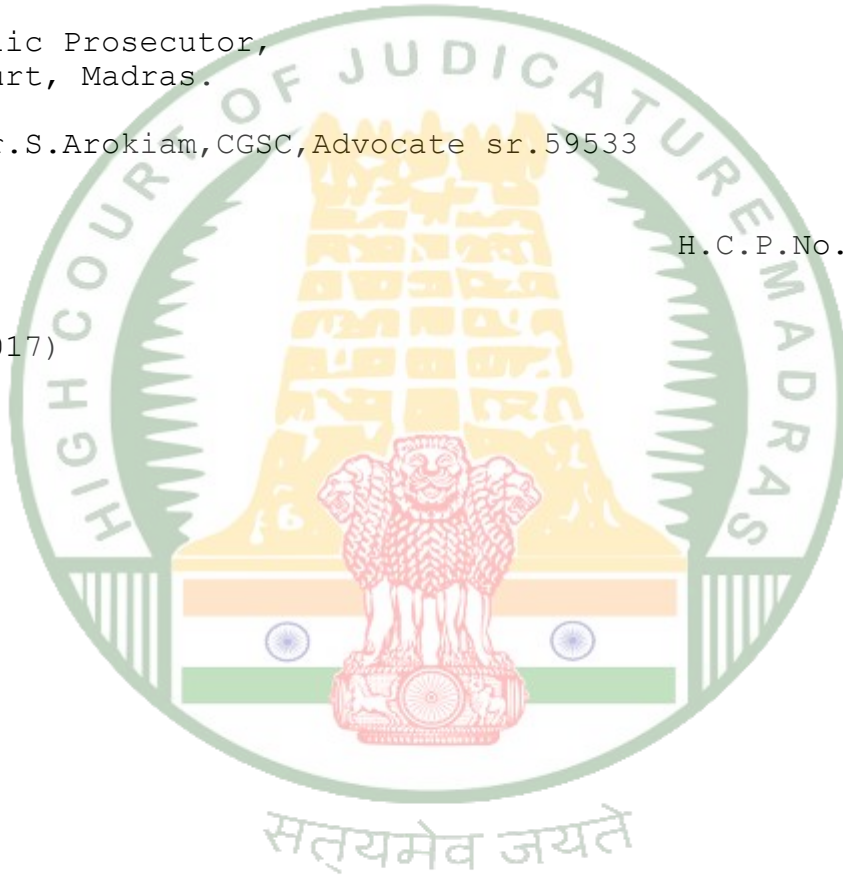
5.The Superintendent
Central Prison, Cuddalore

6.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.S.Arokiam,CGSC,Advocate sr.59533

H.C.P.No.624 of 2017

msm(co)
ss(18/8/2017)



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