

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.632 of 2017

Lekha @ Subalekha

... Petitioner

Vs

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai-9.
 - 2.The District Collector and District Magistrate,
Cuddalore District, Cuddalore.
 - 3.The Superintendent of Prison,
Central Prison, Cuddalore.
- ... 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 detention order of the 2nd respondent in detention order No.C3/DO/08/2017 dated 27.03.2017 and quash the same and direct the respondents to produce the body and person of the petitioner's husband namely Ramesh @ Giji, aged 40 years, S/o.Durai, detained in Central Prison, Cuddalore before this Hon'ble Court and set him at liberty.

For Petitioner : Mr.S.Mohamed Ansar

For Respondents : Mr.V.M.R.Rajentren,
Additional Public Prosecutor

W E B C O P Y
[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.C3/DO/08/2017 dated 27.03.2017 by the Detaining Authority against the detenu by name, Ramesh @ Giji, aged 40 years, S/o.Durai, residing at Malaipatti Village, Ponganur Pudhu Theru, Kalvikudi Post, Near

Ramji Nagar, Srirangam Taluk, Trichy District and quash the same.

2. The Inspector of Police, Chidambaram Railway 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. Madurai Railway Police Station Crime No.76/2015 registered under Section 379 of IPC.
- ii. Madurai Railway Police Station Crime No.106/2015 registered under Section 379 of IPC.
- iii. Chidambaram Railway Police Station Crime No.18/2017 registered under Section 392 of IPC.
- iv. Cuddalore Railway Police Station Crime No.31/2017 registered under Section 379 of IPC.
- v. Trichy Railway Police Station Crime No.56/2017 registered under Section 379 of IPC.

3. Further, it is averred in the affidavit that one Kalyanasundaram, S/o.Duraisamy, residing at Usuppur, Vilanthiramedu, Ammapettai Post, Chidambaram Taluk, as de facto complainant has given a complaint, wherein, it is alleged to the effect that in the place of occurrence, the present detenu has unlawfully deterred the de facto complainant and also forcibly taken away a sum of Rs.1100/- by showing a deadly weapon and consequently, a case has been registered in Crime No.62/2017 under Sections 294[b], 392 r/w 397 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 perusing 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 wife of the detenu as petitioner.

5. On the side of the respondents, counter has not been filed and under such circumstances, 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, two representations are submitted to the concerned authorities. But, the same have 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 to the effect that the representations submitted on the side of the detenu have been duly disposed of without delay and therefore, the contention put forth on the side of the detenu is liable to be rejected.

8. 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.7 to 9, 5 clear working days are available and in between column Nos.12 and 13, 24 clear working days are available. Likewise, in respect of second representation, in between column Nos.7 to 9, 1 clear working day is available and in between column Nos.12 and 13, 17 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 27.03.2017 passed in No.C3/DO/08/2017 by the Detaining Authority against the detenu by name, Ramesh @ Giji, aged 40 years, S/o.Durai is quashed and directed to set him at liberty forthwith, unless he is required to be incarcerated in any other case.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

gya

To

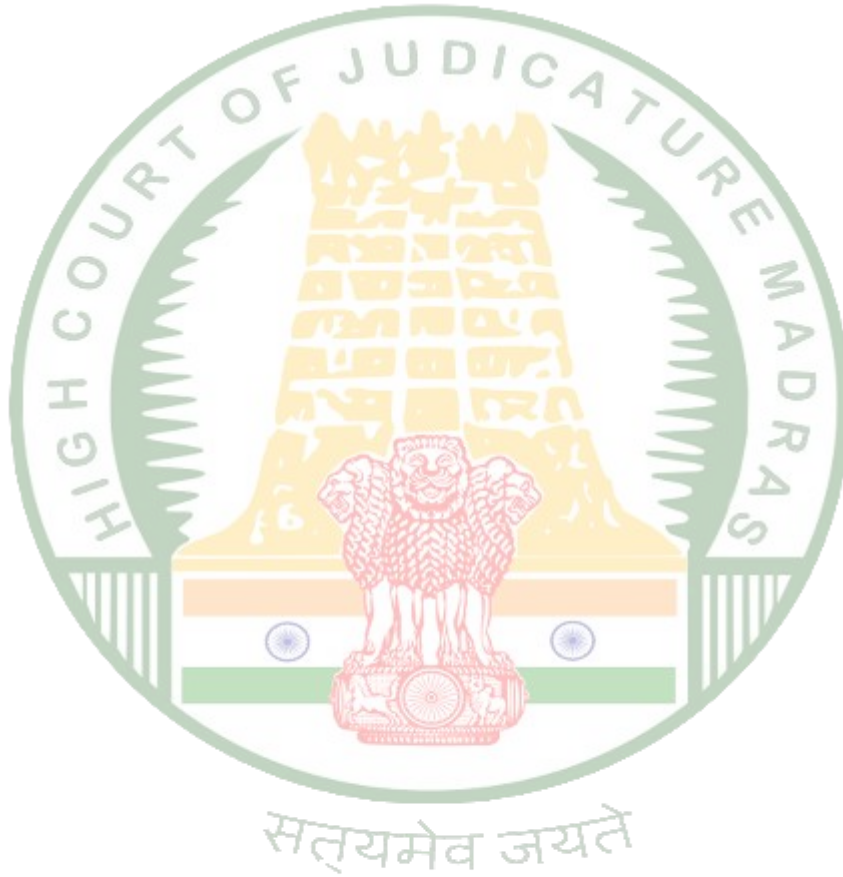
- 1.The Joint Secretary to Government of Tamil Nadu,
Public [Law and Order] Department,
Secretariat, Chennai-9.
- 2.The Secretary to Government [Home],
Prohibition and Excise Department,
Fort St. George, Chennai-9.
- 3.The District Collector and District Magistrate,
Cuddalore District,
Cuddalore.

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

5.The Public Prosecutor,
High Court, Madras.

H.C.P.No.632 of 2017

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