

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 27.07.2017

CORAM

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

H.C.P.No.644 of 2017

Syed Mohammed

.. Petitioner

Vs

1.The State rep.
by its Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George, Chennai-9.

2.The Commissioner of Police,
City of Coimbatore,
Coimbatore.

.. Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS, to call for the records leading to the detention of the petitioner's son namely, S.Jaffar Ali @ Jaffer, aged 29 years, S/o.Syed Mohammed, under Act 14 of 1982 vide detention order dated 10.04.2017 on the file of the 2nd respondent made in proceedings in C.No.24/G/IS/2017, quash the same, consequently direct the respondents herein to produce the body and person of S.Jaffar Ali @ Jaffer, S/o.Syed Mohammed who is lodged at Central Prison, Coimbatore, before this Hon'ble Court, set him at liberty.

For Petitioner : Mr.M.H.Abdhur Rahman

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

WEB COPY
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 C.No.24/G/IS/2017 dated 10.04.2017 by the Detaining Authority against the detenu by name, S.Jaffar Ali @ Jaffer, aged 29 years, S/o.Syed

Mohammed, residing at door No.71, Anbu Nagar 6th Street, Ponvizha Nagar, South Ukkadam, Coimbatore and quash the same.

2. The Inspector of Police, B-1 Bazaar Police Station, Coimbatore as Sponsoring Authority has submitted an affidavit to the Detaining Authority, wherein, it is averred that 17.03.2017 at about 01.00hrs, one I.Rasheedha, as de facto complainant has given a complaint against the detenu and others in B-1 Bazaar Police Station, wherein, it is stated that her husband Farooq has been murdered. On the basis of offences made out in the complaint, a case has been registered in Crime No.258/2016 under Section 302 of Indian Penal Code, subsequently altered into under Sections 364, 147, 148, 341, 294[b], 302 of Indian Penal Code r/w 120[b] of 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 gravity of offence has 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.

4. On the side of the respondents, counter has been filed, wherein, it is averred to the effect that most of the averments made in the petition are false. The Sponsoring Authority has supplied all the relevant materials to the Detaining Authority. The Detaining Authority after considering all the relevant materials and other connected papers, has arrived at a subjective satisfaction to the effect that the detenu has committed a grave offence and ultimately, branded him as goonda and the same does not call for any interference and therefore, the present petition deserves to be dismissed.

5. Learned counsel appearing for the petitioner has contended to the effect that on the side of the detenu, two representations have been submitted to the concerned authorities and the same are not 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 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 is clearly stated that in respect of both the representations, in between column Nos.7 and 9, 5 clear working days are available and in between column Nos.12 and 13, 10 clear working days are available and no explanation has been

given on the side of the respondents with regard to such a 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 10.04.2017 passed in C.No.24/G/IS/2017 by the Detaining Authority against the detenu by name, S.Jaffar Ali @ Jaffer, aged 29 years, S/o.Syed Mohammed is quashed and directed to set him at liberty forthwith, unless he is required to be incarcerated in any other case.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

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To

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

2.The Commissioner of Police,
City of Coimbatore,
Coimbatore.

3. The Superintendent,
Central Prison,
Coimbatore.

(In duplicate to Communication to the detenue)

4. The Joint Secretary to Government,
Public (Law & Order)
Fort St.George,
Chennai-9

5. The Public Prosecutor,
High Court, Madras.

H.C.P.No.644 of 2017

KJ(CO)
NR 27/07/2017