

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.08.2017

CORAM

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

H.C.P.No.647 of 2017

Aabhitha Begum

... Petitioner

Vs

- 1.The Secretary to Government,
Food & Consumer Protection Department,
2nd Floor, Namakkal Kavingnar Maligai,
Secretariat, Chennai-9.
- 2.The District Collector and District Magistrate,
Villupuram District,
Villupuram.
- 3.The Secretary to Government,
Government of India,
Ministry of Consumer Affairs,
Food and Public Distribution,
[Department of Consumer Affairs]
Room No.270, Krish 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 2nd respondent dated 18.04.2017 in Memo No.C2/11004/2017 Black Marketing Act and quash the same as illegal and consequently direct the respondent to produce petitioner's husband Mohamed Ali @ Mubarak Ali, aged 53 years, S/o.Abdul Wahab, who is now confined at Central Prison, Cuddalore before this Court and set him at liberty.

For Petitioner : Mr.K.Gandhi Kumar

For R1 and R2 : Mr.V.M.R.Rajentren,
Additional Public Prosecutor

For R3 : Mr.S.Arockiam,
Central Government Standing Counsel

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 C2/11004/2017 dated 18.04.2017 by the Detaining Authority against the detenu by name, Mohamed Ali @ Mubarak Ali, aged 53 years, S/o.Abdul Wahab, residing at No.77, Vinayaga Nagar, Virattikuppam Pathai, Villupuram Town and Taluk, Villupuram District and quash the same.

2. The Inspector of Police, Civil Supplies CID, Villupuram as Sponsoring Authority has submitted an affidavit to the Detaining Authority, wherein, it is averred to the effect that on 15.03.2016, one Balamurugan, Sub Inspector of Police, Civil Supplies CID, Villupuram Unit and other police officials have made vehicle check up. At that time, they intercepted a vehicle bearing registration No.TN67A 9653 and ultimately found some bags of PDS rice and consequently, a case has been registered in Crime No.46/2016 under Section 6[4] of TNSC [RDCS] Order 1982 r/w 7[1][a][iii] of EC Act, 1955 and ultimately, requested the Detaining Authority to invoke Act 7 of 1980 against the detenu.

3. 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 Black Marketeer by 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 by the 2nd respondent, it is averred to the effect that most of the averments made in the petition are false. The Sponsoring Authority has supplied all the materials to the Detaining Authority. The Detaining Authority after perusing all the materials and other connected records, has rightly branded the detenu as Black Marketeer by way of passing the impugned Detention Order and the same does not require 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 petitioner, a representation has been submitted to the concerned authorities. But, the same has not been 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 representation submitted on the side of the petitioner has been 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 to 9, 5 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.

8. In fine, this petition is allowed. The Detention Order dated 18.04.2017 passed in C2/11004/2017 by the Detaining Authority against the detenu by name, Mohamed Ali @ Mubarak Ali, aged 53 years, S/o.Abdul Wahab, 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 VIII)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Joint Secretary to Government of Tamil Nadu,
Public [Law and Order] Department,
Secretariat, Chennai-9.
- 2.The Secretary to Government,
Food & Consumer Protection Department,
2nd Floor, Namakkal Kavingnar Maligai,
Secretariat, Chennai-9.
- 3.The District Collector and District Magistrate,
Villupuram District, Villupuram.
- 4.The Secretary to Government,
Government of India, Ministry of Consumer Affairs,
Food and Public Distribution,
[Department of Consumer Affairs]
Room No.270, Krish Bhavan, New Delhi-110 001.

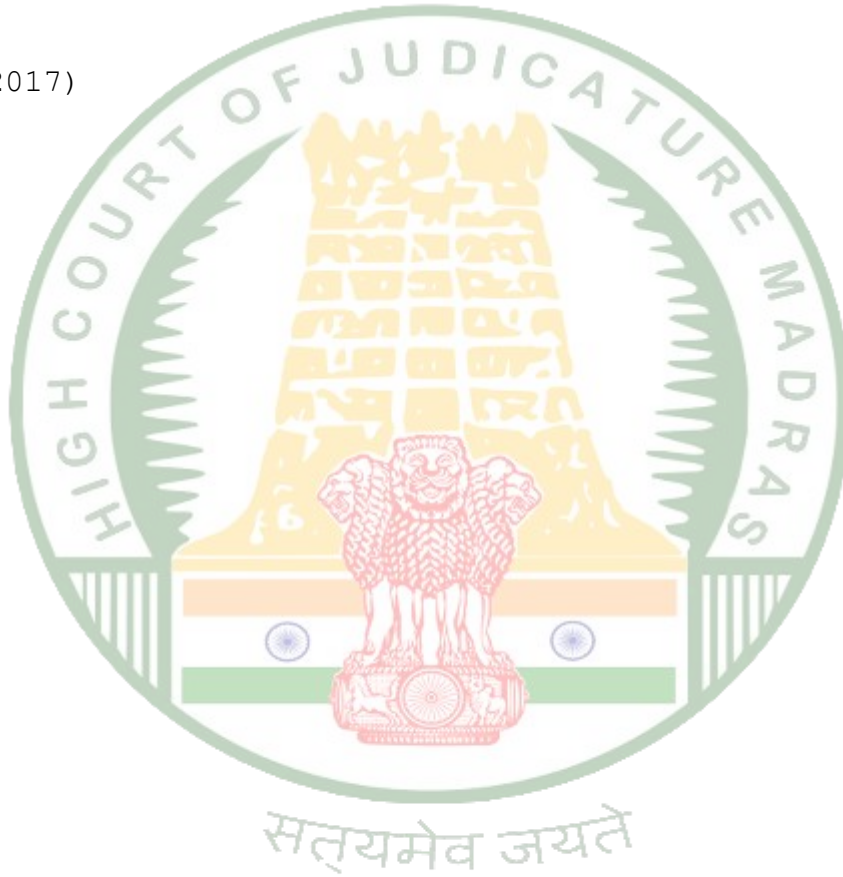
5.The Superintendent,
Central Prison, Cuddalore.
[in duplicate for communication to the detenu]

6.The Public Prosecutor,
High Court, Madras.

+lcc to Mr.S.Arockiam, Advocate, S.R.No.57714

H.C.P.No.647 of 2017

CS VIII
CA(10/08/2017)



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