

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 13.09.2017

CORAM

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

H.C.P.No.656 of 2017

Amul

.. Petitioner

Vs

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

2.The Commissioner of Police,
Greater Chennai.

.. Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS, to call for the records relating to the detention order passed by the 2nd respondent pertaining to the order made in Memo No.111/BCDFGISSSV/2017 dated 03.04.2017 in detain the detenu under 2[f] of Tamil Nadu Act 14/1982, as a Goonda and quash the same and direct the respondent to produce the detenu Manikandan @ Mani @ Bucket Mani, aged 32 years, S/o.Rajamanickam, who is detained at Central Prison, Puzhal before this Hon'ble Court and set him at liberty.

For Petitioner : Mr.J.Williyam Seakesphere
For Respondents : Mr.V.M.R.Rajentren,
Additional Public Prosecutor

ORDER

[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 BCDFGISSSV No.111/2017 dated 03.04.2017 by the Detaining Authority against the detenu by name, Manikandan @ Mani @ Bucket Mani, aged 32 years, S/o.Rajamanickam, residing at No.103, 4th Floor, F-Block, Ezhil Nagar, Perumbakkam, Chennai-100 and quash the same.

2. The Inspector of Police, S-10 Pallikaranai 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 case :

- i. S-10 Pallikaranai Police Station Crime No.4104/2016 registered under Section 302 of the Indian Penal Code.

3. Further, it is averred in the affidavit that on 21.02.2017, one Gopal, aged 40 years, S/o.Srinivasan, residing at No.218, Velachery Main Road, Pallikaranai, Chennai-100, as de facto complainant has given a complaint, wherein, it is alleged to the effect that on the place of occurrence, the detenu has forcibly taken away a sum of Rs.3,500/- from the custody of the de facto complainant and also threatened him. Under such circumstances, a case has been registered in S-10 Pallikaranai Police Station Crime No.426/2017 under Sections 341, 294[b], 397, 336, 427 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 mother of the detenu as petitioner.

5. On the side of the respondents, counter has not been filed and therefore, the present Habeas Corpus Petition is 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, but 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 detenu 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, 9 clear working days are available and in between column Nos.12 and 13, 23 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 03.04.2017 passed in No.BCDFGISSSV No.111/2017 by the Detaining Authority against the detenu by name, Manikandan @ Mani @ Bucket Mani, aged 32 years, S/o.Rajamanickam is quashed and directed to set him at liberty forthwith, unless he is required to be incarcerated in any other case.

[A.S., J.]

[P.K., J.]

13.09.2017

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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 the Government,
Home, Prohibition and Excise Department,
Fort St. George, Chennai-9.

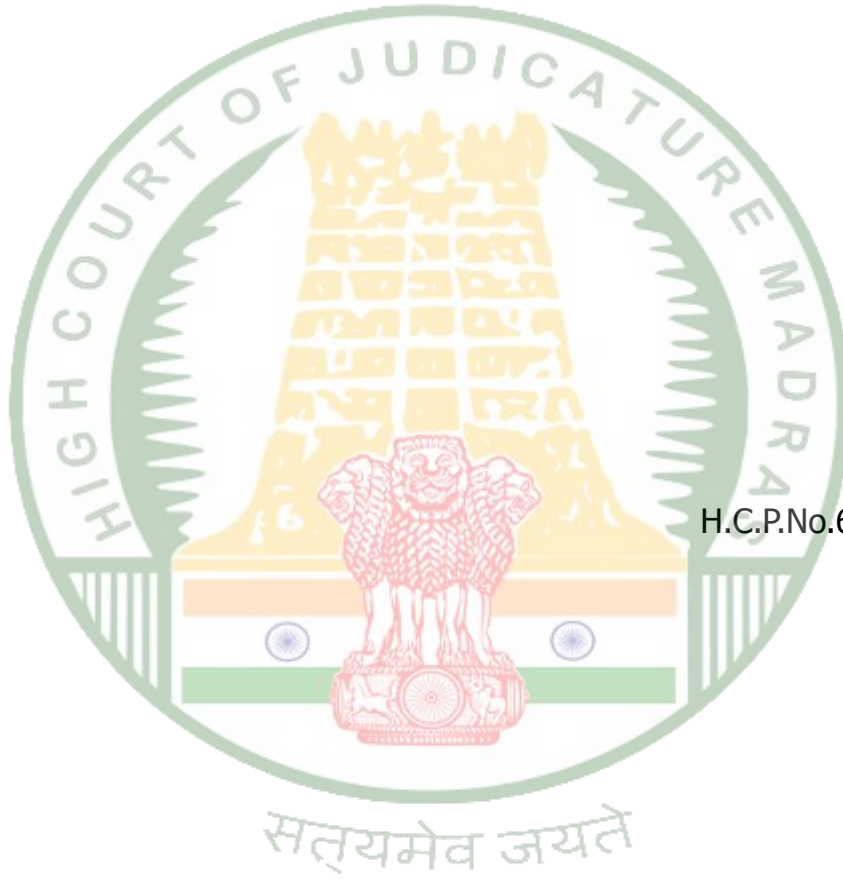
3.The Commissioner of Police,
Greater Chennai.

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

5.The Public Prosecutor,
High Court, Madras.

A.SELVAM, J.
and
P.KALAIYARASAN, J.

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