

IN 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.657 of 2017

Susheela

.. Petitioner

Vs

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

2.The Commissioner of Police,
Greater Chennai,
Vepery,
Chennai-7.

... 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 BCDFGISSSV No.77/2017 dated 23.03.2017 passed by the 2nd respondent under Tamil Nadu Act 14/82 and quash the same and produce the detainee, Gnamam @ Sathish Kumar, aged 26 years, S/o.Jothi, confined at Central Prison, Puzhal, Chennai before this Hon'ble Court and set him at liberty.

For Petitioner : Mr.S.N.Arunkumar

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

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 BCDFGISSSV No.77/2017 dated 23.03.2017 by the Detaining Authority against the detenu

by name, Gnanam @ Sathish Kumar, aged 26 years, S/o.Jothi, residing at 2nd Street, Pudur, Ashok Nagar, Chennai-83 and quash the same.

2. The Inspector of Police, R-2 Kodambakkam 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 :

1. R-2 Kodambakkam Police Station Crime No.143/2017 registered under Sections 307, 506[ii] of IPC @ 307, 302 and 506 [ii] of IPC.

3. Further, it is averred in the affidavit that one Moses, S/o.Desingu, as de facto complainant has given a complaint, wherein, it is alleged to the effect that in the place of occurrence, the present detenu and others have unlawfully deterred the de facto complainant and by showing a knife, they have taken a sum of Rs.700/- from the shirt pocket of the de facto complainant and they have also threatened him. Under such circumstances, a case has been registered in R-2 Kodambakkam Police Station Crime No.144/2017 under Sections 341, 294[b], 397, 336 and 506[iii] 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 sister 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, 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.

7. 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 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 between column Nos.7 to 9, 9 clear working days are available and in between column Nos.12 and 13, 25 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.

9. In fine, this petition is allowed. The Detention Order dated 23.03.2017 passed in BCDFGISSSV No.77/2017 by the Detaining Authority against the detenu by name, Gnanam @ Sathish Kumar, aged 26 years, S/o.Jothi 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

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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 [Home],
Prohibition and Excise Department,
Fort St. George, Chennai-9.

3.The Commissioner of Police,
Greater Chennai,
Vepery, Chennai-7.

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

5.The Public Prosecutor,
High Court, Madras.

H.C.P.No.657 of 2017

sr(co)
ss(28/8/2017)