

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 13.09.2017

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THE HON'BLE Mr.JUSTICE A.SELVAM
and
THE HON'BLE Mr.JUSTICE P.KALAIYARASAN
H.C.P.No.660 of 2017

S.N.Ramamoorthy

.. Petitioner

Vs

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

2.The Commissioner of Police,
Greater Chennai Police,
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 entire records relating to the petitioner's son detention under Tamil Nadu Act 14/1982 vide detention order dated 11.04.2017 on the file of the 2nd respondent herein made in proceedings BCDFGISSSV No.159/2017 and quash the same as illegal and consequently direct the respondents herein to produce the said petitioner's son namely Ragunath, aged 23 years, S/o.Ramamoorthy, before this Hon'ble Court and set him at liberty.

For Petitioner : Mr.C.C.Chellappan

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.159/2017 dated 11.04.2017 by the Detaining Authority against the detenu by name, Ragunath, aged 23 years, S/o.Ramamoorthy, residing at No.2/1717, TK Rangabasan Nagar, Reserve Lane, Sivakasi 626 124 and quash the same.

2. The Inspector of Police, R-1 Mambalam 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. R-1 Mambalam Police Station Crime No.518/2017 registered under Sections 341, 307 and 506[ii] of the Indian Penal Code.
- ii. R-1 Mambalam Police Station Crime No.520/2017 registered under Sections 341, 294[b], 384 and 506[ii] of the Indian Penal Code.

3. Further, it is averred in the affidavit that on 22.03.2017, one Srinivasan, aged 32 years, S/o.Murugan, residing at No.55, Muthumariamman Koil Street, Arumbakkam, Chennai, as de facto complainant has given a

complaint in R-1 Mambalam Police Station, wherein, it is alleged to the effect that in the place of occurrence, the detenu has illegally demanded a sum of Rs.500/- from the de facto complainant. When the de facto complainant has refused to part with the same, the detenu tried to attack the de facto complainant and threatened him. Under such circumstances, a case has been registered in Crime No.523/2017 under Sections 341, 294[b], 336, 427, 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 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 father 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, four representations have been submitted, 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 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 respect of 1st representation, in between column Nos.7 to 9, 9 clear working days are available and in between column Nos.12 and 13, 24 clear working days are available. In respect of 2nd representation, in between column Nos.7 to 9, 9 clear working days are available and in between column Nos.12 and 13, 15 clear working days are available. Likewise, in respect of 3rd and 4th representations, in between column Nos.7 to 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 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 11.04.2017 passed in No.BCDFGISSSV No.159/2017 by the Detaining Authority against the detenu by name, Ragunath, aged 23 years, S/o.Ramamoorthy 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,
Secretariat, Chennai-9.

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

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

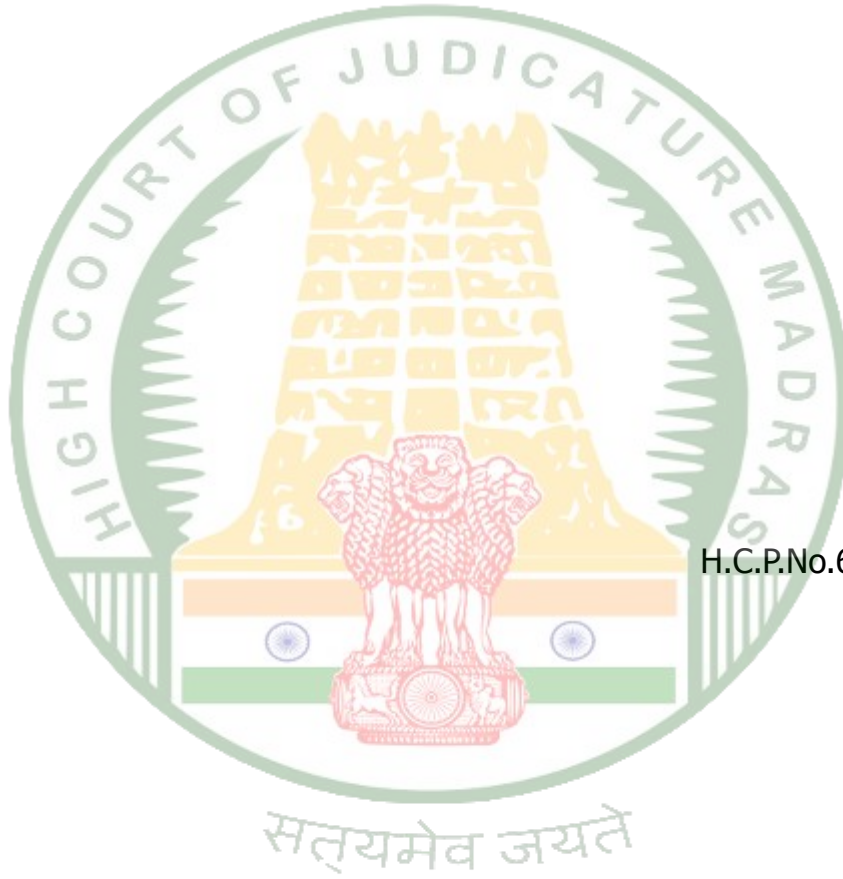
5.The Public Prosecutor,
High Court, Madras.

A.SELVAM, J.

and

P.KALAIYARASAN, J.

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H.C.P.No.660 of 2017

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