

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 25.07.2017

CORAM

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

H.C.P.No.668 of 2017

Kajol

.. Petitioner

Vs

1.State of Tamil Nadu,
Rep. by its Secretary to Government,
Home, Prohibition and Excise [XVI] 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 petitioner's husband detention under Tamil Nadu Act 14 of 1982 vide Detention Order, dated 03.04.2017 on the file of the 2nd respondent herein made in proceedings No.114/BCDFGISSSV/2017 and quash the same as illegal and consequently direct the respondents herein to produce the said petitioner's husband namely Prabhakar @ Shyam, aged 39 years, S/o.Ayyankhan, before this Hon'ble High Court and set the petitioner's husband at liberty from detention, now petitioner's husband detained at Central Prison-II, Puzhal, Chennai-66.

For Petitioner : Mr.C.C.Chellappan

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 No.114/BCDFGISSSV/2017 dated 03.04.2017 by the Detaining Authority against the detenu

by name, Prabhakar @ Shyam, aged 39 years, S/o.Ayyankhan, residing at No.1/111, Gangaiamman Koil Street, Vanagaram, Chennai-94 and quash the same.

2. The Inspector of Police, Anti Vice Squad 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. Anti Vice Squad-I Crime No.1/2017 registered under Sections 3[2]a, 4[1], 5[1]a, 6[1] and 7[1] of ITP Act.

ii. Anti Vice Squad-II Crime No.19/2017 registered under Sections 3[2]a, 4[1] and 5[1]a of ITP Act.

3. Further, it is averred in the affidavit that on 21.03.2017, one Special Sub Inspector of Police by name, Chakravathy and others was watching whether any prostitution business is going on in the place of occurrence and at that time, the detenu has contacted the said Chakravathy and asked him whether he is willing to have a prostitute and consequently, a case has been registered in Crime No.21/2017 under Sections 3 [2]a, 4[1], 5[1]a, 6[1] and 7[1] of ITP Act 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 Immoral Traffic Offender, by way of 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.

5. In the counter filed on the side of the respondents, it is averred that most of the averments made in the petition are false. The Sponsoring Authority has submitted all the material records to the Detaining Authority. The Detaining Authority after perusing all the records, has arrived at a subjective satisfaction to the effect and ultimately, passed the impugned Detention Order and the same does not call for any interference and therefore, the present petition deserves to be dismissed.

6. 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.

7. Per contra, learned Additional Public Prosecutor has

contended to the effect that the representations submitted on the side of the detenu has been duly disposed of without delay and therefore, the contention urged 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 has been clearly stated that in respect of first representation, in between column Nos.7 and 9, 5 clear working days are available and in between column Nos.12 and 13, 30 clear working days are available. Likewise, in respect of second representation, in between column Nos.7 and 9, 3 clear working days are available and in between column Nos.12 and 13, 20 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 03.04.2017 passed in No.114/BCDFGISSSV/2017 by the Detaining Authority against the detenu by name, Prabhakar @ Shyam, aged 39 years, S/o.Ayyankhan, is quashed and directed to set him at liberty forthwith, unless he is required to be incarcerated in any other case.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1.The Secretary to Government,
Government of Tamil Nadu,
Home, Prohibition and Excise [XVI] Department,
Secretariat, Chennai-9.

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

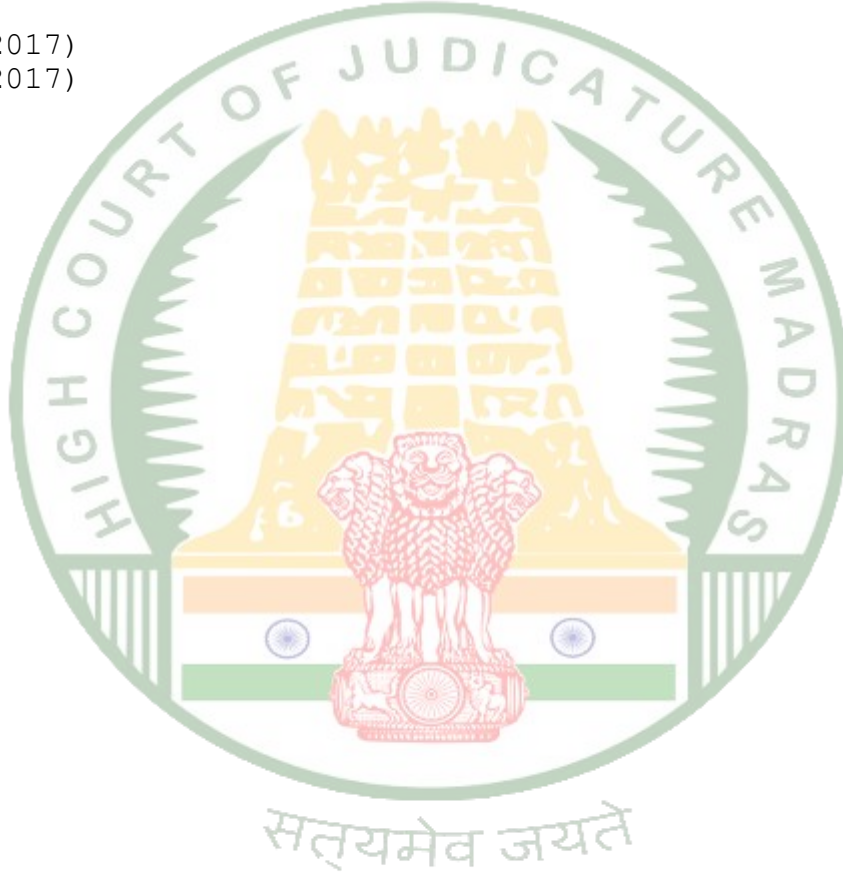
3.The Public Prosecutor,
High Court, Madras.

4.The superintendent,
central prison,
puzhal, chennai-66.

5.The Joint Secretary to Government,
Public (Law & Order) Fort St.George,
Chennai-600 009.

H.C.P.No.668 of 2017

RJ(25/07/2017)
GN(25/07/2017)



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