

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 19.09.2017

CORAM

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

H.C.P.No.703 of 2017

R.Balasundaram .. Petitioner

Vs

1.The State of Tamil Nadu
Rep. by its Secretary to Government
Home, Prohibition and Excise Department
Fort St. George
Chennai - 600 009

2. The Commissioner of Police
Greater Chennai
O/o.The Commissioner of Police (Goondas Section)
Veperi
Chennai - 600 007

.. Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS, calling for the records of the second respondent herein pertaining to the detention order made in No.181/BCDFGISSSV/2017 dated 15.04.2017 and quash the same and direct the respondents to produce the body of the detenu B.Madhan, Son of R.Balasundaram, aged about 23 years, now detained in Central Prison, Puzhal, before this Court and set the detenu at liberty forthwith.

For Petitioner : Mr.M.P.Saravanan

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

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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 the records relating to the detention order passed in Memo No.181/BCDFGISSSV/2017 dated 15.04.2017, against the detenu by

name, Madhan, aged 23 years, S/o.Balasundaram, residing at No.139, I-Block, MMDA Colony, Arumbakkam, Chennai - 600 106 and quash the same.

2. The Inspector of Police, K4 Anna Nagar 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) K3 Aminjikarai Police Station, Crime No.1857 of 2012, registered under Section 294(b), 307 r/w. Section 34 of Indian Penal Code;

ii) K4 Anna Nagar Police Station, Crime No.727 of 2016, registered under Section 379 of Indian Penal Code;

iii) K4 Anna Nagar Police Station, Crime No.451 of 2017, registered under Sections 341, 323, 294(b), 392 and 506(ii) of Indian Penal Code; and

iv) K-3 Aminjikarai Police Station, Cr.No.613 of 2017, registered under Sections 341, 294(b), 384 & 506(ii) of Indian Penal Code.

3. Further it is averred in the affidavit that on 29.03.2017, one Saravanan, aged 47 years, S/o.Karuppaiah, residing at No.82/43, Shanmugasundaram Street, Saligramam, Chennai-93, as defacto complainant, has given a complaint wherein it is alleged to the effect that in the place of occurrence, the defacto complainant has been wrongfully detained by the present detenu and others and forcibly taken away a sum of Rs.525/- from his custody. Further they have also caused injuries on the person of the defacto complainant. Under such circumstances, a case has been registered in Crime No.459 of 2016 under Sections 341, 294(b), 427, 336, 392, 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 derived 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. Under such circumstance, this petition is disposed of on merits on the basis of available materials on record.

6. The 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 so far disposed of and under such circumstance, the Detention Order

in question is liable to be quashed.

7. The learned Additional Public Prosecutor has contended that the detenu has not submitted any representation. Under such circumstance, the contention put forth on the side of the petitioner is liable to be rejected.

8. It is seen from the records that on the side of the detenu a representation has been submitted to the concerned authorities on 17.04.2017 and to that effect, postal receipts are also annexed with. Therefore, it is quite clear that on the side of the detenu, representation has been submitted to the concerned authorities, but the concerned authorities have not disposed of the same. Since the concerned authorities have not disposed of the representation given by the detenu, the same would affect the rights of the detenu guaranteed under Article 22(5) of the Constitution of India.

9. In fine, this Habeas Corpus Petition is allowed and the Detention Order dated 15.04.2017 passed in Memo No.181/BCDFGISSSV/2017 by the Detaining Authority against the detenu by name, Madhan, aged 23 years, S/o.Balasundaram is quashed and directed to set him at liberty forthwith unless he is required to be incarcerated in any other case.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

gpa

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 - 600 009
3. The Commissioner of Police
Greater Chennai
O/o.The Commissioner of Police (Goondas Section)
Veperi
Chennai - 600 007

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

5.The Public Prosecutor,
High Court, Madras.

H.C.P.No.703 of 2017

PPA (CO)
GN (19/09/2017)



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