

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 20.09.2017

CORAM

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

H.C.P.No.709 of 2017

Baby

.. Petitioner

Vs

1.State of Tamil Nadu,
Rep. by the Secretary,
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 Memo No.147/BCDFGISSSV/2017 dated 08.04.2017 passed by the 2nd respondent under Tamil Nadu Act 14/1982 and quash the same and direct the respondent to produce the detenu Baskar, aged 27 years, S/o.Sankar, now confined in Central Prison, Puzhal before this Hon'ble Court and set him at liberty.

For Petitioner : Mr.S.Vellidoss

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.147/BCDFGISSSV/2017 dated 08.04.2017 by the Detaining Authority against the detenu by name, Baskar, aged 27 years, S/o.Sankar, residing at No.58/143, Gandhi Street, Periyar Nagar, Thiruvannamiyur, Chennai-41 and quash the same.

2. The Inspector of Police, J-6, Thiruvanniyur 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. J-6 Thiruvanniyur Police Station Crime No.3264/2016 registered under Sections 147, 148, 341, 324, 307 and 506 [ii] of the Indian Penal Code.

ii. J-6 Thiruvanniyur Police Station Crime No.3311/2016 registered under Sections 341, 294[b], 392 and 506[ii] of the Indian Penal Code.

iii. J-6 Thiruvanniyur Police Station Crime No.3315/2016 registered under Sections 341, 294[b], 323, 392 r/w 397, 336, 427 and 506[ii] of the Indian Penal Code.

3. Further, it is averred in the affidavit that one Jahir, aged 38 years, S/o.Usir, residing at No.230, Odaikuppam, Besant Nagar, Chennai-90, as de facto complainant has given a complaint on 14.03.2017 in J-6 Thiruvanniyur Police Station, wherein, it is alleged to the effect that in the place of occurrence, the detenu has illegally detained the de facto complainant and forcibly taken away a sum of Rs.150/- and consequently, a case has been registered in Crime No.931/2017 under Sections 341, 294[b], 323, 427, 336, 392 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. In the counter filed on the side of the respondents, it is averred to the effect that most of the averments made in the petition are false. The Sponsoring Authority has submitted all the relevant materials to the Detaining Authority. The Detaining Authority after perusing all the material records, has arrived at a subjective satisfaction to the effect that the detenu is a habitual offender and ultimately, passed the impugned Detention Order and the same does not require 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, 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. Learned Additional Public Prosecutor has submitted 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 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, 6 clear working days are available and in between column Nos.12 and 13, 15 clear working days are available and no explanation has been given on the side of the respondents with regard to such huge delay. Further, it is seen from the records that English version of grounds of detention order has not been served to the detenu properly and at such circumstances, the Detention Order in question is liable to be quashed.

9. In fine, this petition is allowed. The Detention Order dated 08.04.2017 passed in No.147/BCDFGISSSV/2017 by the Detaining Authority against the detenu by name, Baskar, aged 27 years, S/o.Sankar, is quashed and directed to set him at liberty forthwith, unless he is required to be incarcerated in any other case.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant 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 the Government,
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.709 of 2017

PA(CO)
GN(20/09/2017)



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