

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 27.07.2017

CORAM

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

H.C.P.No.717 of 2017

R.Ammu

.. Petitioner

Vs

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

2.The Commissioner of Police
Greater Chennai
Office of Commissioner of Police
Veppery, Chennai

.. Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS, to call for records of the detention made in Memo No.143/BCDFGISSSV/2017 dated 07.04.2017 on the file of the second respondent and quash the same and direct the respondents herein to produce the petitioner's son Janakiraman, aged about 24 years, confined at Central Prison, Puzhal and set him at liberty.

For Petitioner : Mr. K.Kannan

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 the records relating to the detention order passed in Memo No.143/BCDFGISSSV/2017 dated 07.04.2017, against the detenu by name, Janakiraman, aged 24 years, S/o.Radhakrishnan, No.1/10, Bharathi Nagar, 2nd Street, Villivakkam, Chennai- 600 049 and quash the same.

2. The Inspector of Police, T-2 Ambattur Estate Police Station, as Sponsoring Authority, has submitted an affidavit to the Detaining Authority, wherein, it is averred that the detenu has involved in the following adverse cases:-

1. T-2 Ambattur Estate Police Station, Crime No.362/2017, registered under Section 380 of Indian Penal Code;
2. T-2 Ambattur Estate Police Station, Crime No.402/2017, registered under Section 379 of Indian Penal Code;
3. T-2 Ambattur Estate Police Station, Crime No.404/2017, registered under Section 392 of Indian Penal Code;
- 4.

3. Further, it is averred in the affidavit that on 10.03.2017, one Muniswaran, aged 24 years, S/o. Nagaraj, residing at No.17/23, Koil Street, Othakadai, Devakottai Taluk, Sivagangi District, as defacto complainant, has given a complaint, wherein it is stated that in the place of occurrence, the detenu has unlawfully detained the defacto complainant and forcibly taken away a sum of Rs.1,340/- and further, the detenu has threatened the defacto complainant. Under such circumstances, a case has been registered in Crime No.422 of 2017 under Sections 341, 294(b), 336, 427, 392, 397 and 506(ii) of 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 materials, 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 mother of the detenu has filed the present petition, as petitioner.

5. In the counter filed on the side of the respondents, it is averred that all 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 considering all the relevant materials, has derived a subjective satisfaction to the effect that the detenu is a habitual offender and rightly branded him as "Goonda" by way of passing the impugned Detention Order and the same does not require any interference and therefore, the present petition deserves to be dismissed.

6. The learned counsel appearing for the petitioner has contended to the effect that on the side of the detenu, two 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. The learned Additional Public Prosecutor has contended 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 has been clearly stated that in respect of first representation, in between column Nos.7 and 9, 5 clear working days and in between Column Nos.12 and 13, 25 clear working days are available and likewise, in respect of second respondent, in between column numbers 7 and 9, 2 clear working days are available and in between Column Nos.12 and 13, 20 clear workings days are available and no explanation has been given on the side of the respondents with regard to such delay and that 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 Habeas Corpus Petition is allowed and the Detention Order dated 07.04.2017 passed in Memo No.143/BCDFGISSSV/2017 by the second respondent against the detenu by name, Janakiraman, aged 24 years, S/o. Radhakrishnan, residing at No.1/10, Bharathi Nagar, 2nd Street, Villivakkam, Chennai- 600 049 is quashed and directed to set him at liberty forthwith unless he is required to be incarcerated in any other case.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

gpa
To

1. The Secretary to Government
Home, Prohibition and Excise Department
Fort St. George
Chennai - 600 009

2. The Commissioner of Police
Greater Chennai
Office of Commissioner of Police
Veppery, Chennai

3. The Superintendent,
Central Prison,
Puzhal, Chennai.

(In duplicate to Communication to the detenue)

4. The Joint Secretary to Government,
Public (Law & Order)
Fort St.George,
Chennai.

5. The Public Prosecutor,
High Court, Madras.

H.C.P.No.717 of 2017

KJI (CO)
NR 27/07/2017



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