

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.726 of 2017

Mrs.S.Jothi

.. Petitioner

Vs

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

2.The District Collector
and District Magistrate
Perambalur, Perambalur District

.. Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS, to call for the records in connection with the order of detention passed by the second respondent dated 25.03.2017 in CrI.M.P.No.7 of 2017 and direct production of Karthick alias Karthikeyan, presently detained in Central Prison, Trichy before this Court and set him at liberty.

For Petitioner : Mr.R.Narendran
For Respondents : Mr.V.M.R.Rajentran
Additional Public Prosecutor

सतयमेव जयते
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 Cr.M.P.No.07/2017 dated 25.03.2017, against the detenu by name, Karthik alias Karthikeyan, aged 31 years, S/o.Sekar, residing at No.70, B.M.M.Nagar, New Bus Stand, Perambalur Town and Taluk, Perambalur District and quash the same.

2. The Inspector of Police, Perambalur 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:

1. Perambalur District, Padalur Police Station, Crime No.163 of 2016, registered under Sections 420 and 120(B) of Indian Penal Code;

3. Further it is averred that in the affidavit that on 10.03.2017, one Ramadoss, Village Administrative Officer, Perambalur North, as defacto complainant, has given a complaint in Perambalur Police Station and the same has been registered in Crime No.239 of 2017 under Sections 174 of Code of Criminal Procedure, 1973. After conducting investigation, section of law has been altered into Sections 270, 417, 420 and 508 of Indian Penal Code and subsequently, the detenu has been arrested 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 in the habit of committing grave offence 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. On the side of the respondents, a counter has been filed, wherein, it is contended to the effect that most of the averments made in the petition are false and the Sponsoring Authority has submitted all the relevant materials to the Detaining Authority and the Detaining Authority, after considering the same and other connected papers, has derived a subjective satisfaction to the effect that the detenu is in the habit of committing crimes one after another and ultimately, branded him as goonda by way of passing the impugned detention order and the same does not call for 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, a representation has been given, but the same has not been disposed of without delay and therefore, the Detention Order in question is liable to be quashed.

7. Per contra, the learned Additional Public Prosecutor has contended that the representation submitted on the side of the detenu has 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 between column Nos.7 and 9, 10 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 huge 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 25.03.2017 passed in Cr.M.P.No.07/2017 by the second respondent against the detenu by name, Karthik alias Karthikeyan, aged 31 years, S/o.Sekar, residing at No.70, B.M.M.Nagar, New Bus Stand, Perambalur Town and Taluk, Perambalur District 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

gpa

To

- 1.The Secretary to Government
Home, Prohibition and Excise Department
Secretariat, Chennai - 600 009
- 2.The District Collector
and District Magistrate
Perambalur, Perambalur District
- 3.The superintendent, central prison,
Trichy.(In duplicate to communicate to the detenue)
- 4.The Joint Secretary to Government,
Public (Law & Order) Fort St.George,
Chennai-600 009.
- 5.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.R.Narendran, Advocate SR.No.53770(16/08/2017)

H.C.P.No.726 of 2017

KJI (CO)
GN(27/07/2017)