

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 10.08.2017

CORAM

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

H.C.P.No.728 of 2017

A.R.Gopinath

.. Petitioner

Vs

1.The State rep by
The Secretary to Government,
Co-operation, Food & Consumer Protection Department,
2nd Floor, Namakkal Kavingnar Maligai,
Secretariat, Fort St. George,
Chennai-600 009.

2.The District Collector and District Magistrate,
Vellore District,
Vellore-9.

3.The Central rep. by the
The Addl. Secretary to Government of India,
Ministry of Consumer Affairs,
Food and Public Distribution,
[Department of Consumer Affairs]
Room No.270, Krish Bhavan,
New Delhi-110 001.

.. 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 2nd respondent in C3.D.O.No.43/2017 dated 02.05.2017 against petitioner's brother namely V.Kotta Senthil @ Senthil Kumar, aged 40 years, S/o.Renugopal, who is confined at Central Prison, Vellore to set aside the same and direct the respondents to produce the detenu before this Hon'ble Court, set him at liberty.

For Petitioner : Mr.S.Paul Gnanamuthu
for Mr.K.Sathya
For R1 and R2 : Mr.V.M.R.Rajentren,
Additional Public Prosecutor
For R3 : Mr.S.Arockiam,
Central Govt. Standing Counsel

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 C3.D.O.No.43/2017 dated 02.05.2017 by the Detaining Authority against the detenu by name, V.Kotta Senthil @ Senthil Kumar, aged 40 years, S/o.Renugopal, residing at No.12/2, Hanumantha Nagar, V.Kotta Post and Mandal, Chithoor District, Andhra Pradesh and quash the same.

2. The Inspector of Police, Civil Supplies CID, Vellore 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. Civil Supplies CID, Vellore Unit Crime No.114/2015 registered under Section 6[4] of TNSC [RDSCS] Order, 1982 r/w 7[1][a][ii] of EC Act, 1955.
- ii. Civil Supplies CID, Vellore Unit Crime No.15/2016 registered under Section 6[4] of TNSC [RDSCS] Order, 1982 r/w 7[1][a][ii] of EC Act, 1955.
- iii. Civil Supplies CID, Vellore Unit Crime No.67/2016 registered under Section 6[4] of TNSC [RDSCS] Order, 1982 r/w 7[1][a][ii] of EC Act, 1955.

3. Further, it is averred in the affidavit that on 17.03.2017, one Senthilvinayagam, Inspector of Police, Civil Supplies CID, Vellore and other police officials have made vehicle check up. At that time, they intercepted the vehicle bearing registration No.AP03BY 2259 and ultimately found some bags of PDS rice without having license and consequently, a case has been registered in Crime No.47 of 2017 under Section 6[4] of TNSC [RDSCS] Order, 1982 r/w 7[1][a][ii] of EC Act, 1955 and ultimately, requested the Detaining Authority to invoke Act 7 of 1980 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 Black Marketeer by passing the impugned Detention Order and in order to quash the same, the present petition has been filed by the brother of the detenu as petitioner.

5. In the counter filed on the side of the 2nd respondent, it is averred to the effect that most of the averments made in

the petition are false. The Sponsoring Authority has supplied all the materials to the Detaining Authority. The Detaining Authority after perusing all the materials and other connected records, has rightly branded the detenu as Black Marketeer 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. Learned counsel appearing for the petitioner has contended to the effect that on the side of the petitioner, a representation has been submitted to the concerned authorities. 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 contended that the representation submitted on the side of the petitioner has been 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 is clearly stated that in between column Nos.7 to 9, 8 clear working days are available and no explanation has been given on the side of the respondents with regard to such 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 02.05.2017 passed in C3.D.O.No.43/2017 by the Detaining Authority against the detenu by name, V.Kotta Senthil @ Senthil Kumar, aged 40 years, S/o.Renugopal, is quashed and directed to set him at liberty forthwith, unless he is required to be incarcerated in any other case.

Sd/-
Asst.Registrar (CS VIII)

/true copy/

Sub Asst. Registrar

gya

To

1.The Joint Secretary to Government of Tamil Nadu,
Public [Law and Order] Department,
Secretariat, Chennai-9.

2.The Secretary to Government,
Co-operation, Food & Consumer Protection Department,
2nd Floor, Namakkal Kavingnar Maligai,
Secretariat, Fort St. George,
Chennai-600 009.

3.The District Collector and District Magistrate,
Vellore District, Vellore-9.

4.The Addl. Secretary to Government of India,
Ministry of Consumer Affairs,
Food and Public Distribution,
[Department of Consumer Affairs]
Room No.270, Krish Bhavan,
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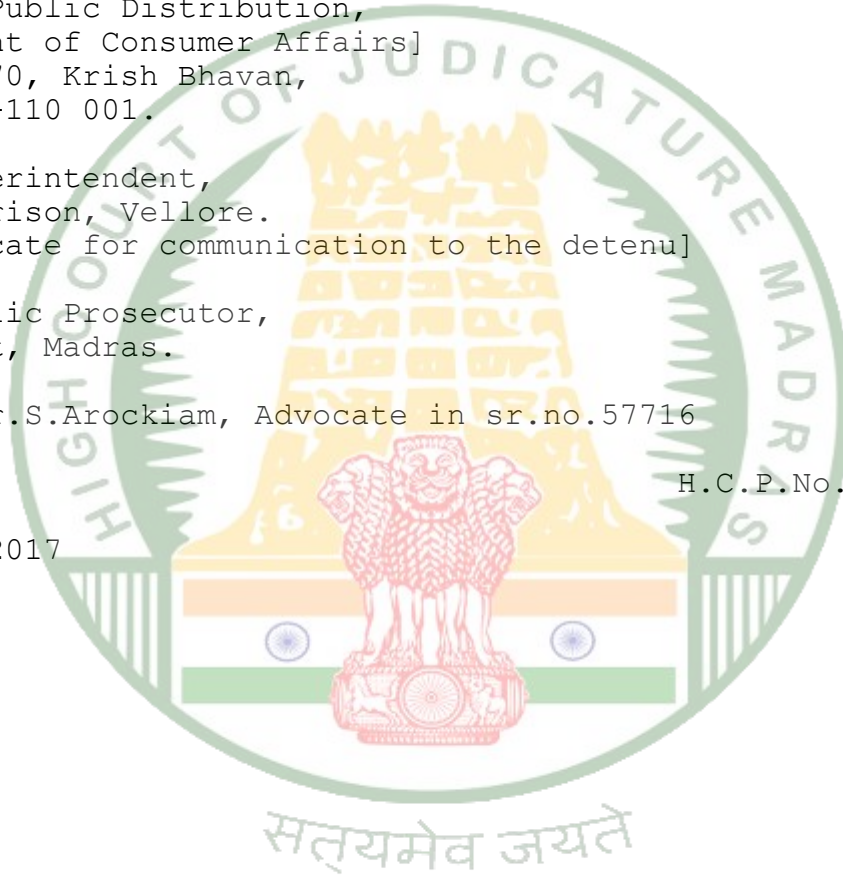
5.The Superintendent,
Central Prison, Vellore.
[in duplicate for communication to the detenu]

6.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.S.Arockiam, Advocate in sr.no.57716

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NR 10/08/2017



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