

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:14.09.2017

CORAM:

THE HON'BLE MR.JUSTICE A.SELVAM
AND
THE HON'BLE MR.JUSTICE M.DHANDAPANI

H.C.P.No.729 of 2017

Govindammal Petitioner/Mother of
the detenu

vs.

1.The State of Tamil Nadu,
rep.by the Secretary to Government,
Home Prohibition and Excise Department,
Fort St.George,
Chennai-9.

2.The Commissioner of Police,
Greater Chennai Police,
Vepery, 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 entire records relating to petitioner's son detention under Tamil Nadu Act 14 of 1982 vide detention order, dated 06.04.2017, on the file of the second respondent herein made in proceedings No.136/BCDFGISSSV/2017, and quash the same as illegal and consequently direct the respondents herein to produce the said petitioner's son namely Vinothkumar, son of Vijayakumar, aged 35 years, before this Court and set the petitioner's son at liberty from detention, now petitioner's son detained at Central Prison-II, Puzhal, Chennai-600 066.

For Petitioner : Mr.C.C.Chellappan

For Respondents : Mr.V.M.R.Rajentran, Addl.P.P.

ORDER

(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 detention order passed in No.136/BCDFGISSSV/2017, dated 06.04.2017, by the detaining authority against the detenu, by name Vinothkumar, aged 35 years, S/o Vijayakumar, residing at No.135, Bagavath Singh Street, Thiruvalluvar Nagar, Ambattur, Chennai-600 053.

2. The Inspector of Police, T-1 Ambattur 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. T-1 Ambattur Police Station Cr.No.1669 of 2016, registered under Section 399 of the Indian Penal Code.
- ii. T-1, Ambattur Police Station Cr.No.4290 of 2016, registered under Section 379 of the Indian Penal Code.
- iii. T-1, Ambattur Police Station Cr.No.4470 of 2016, registered under Section 379 of the Indian Penal Code.
- iv. T-2, Ambattur Police Station Cr.No.30 of 2017, registered under Section 379 of the Indian Penal Code.

3. Further, it is averred in the affidavit that on 27.01.2017, one Raja, aged 26 years, son of Raghu, residing at No.6, Service Road, East Balaji Nagar, Kallikuppam, Ambattur, Chennai-53, as defacto complainant, has given a complaint in T-1 Ambattur Police Station, wherein it is alleged that in the place of occurrence, the detenu has illegally restrained the defacto complainant and by using filthy words and also by showing a knife, he has forcibly taken away a sum of Rs.370/- from the custody of the defacto complainant and also threatened him and in connection with the same, a case has been registered in Crime No.319 of 2017, under Sections 341, 294(b), 336, 427, 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 perusing the averments made in the affidavit and other connected documents, has derived subjective satisfaction to the effect that the detenu is a habitual offender and ultimately branded him as a '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 considering all the relevant materials and other connected documents, has derived subjective satisfaction to the effect that the detenu is a habitual offender and ultimately branded him as a '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, 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. Per contra, the learned Additional Public Prosecutor appearing for the respondents has contended to the effect 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 is clearly stated that in between Column Nos.7 to 9, seven clear working days are available and in between Column Nos.12 and 13, twenty six 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.

In fine, this Habeas Corpus Petition is allowed. The detention order dated 06.04.2017, passed in No.136/BCDFGISSSV/2017, by the detaining authority against the detenu, by name Vinothkumar, aged 35 years, S/o Vijayakumar, residing at No.135, Bagavath Singh Street, Thiruvalluvar Nagar, Ambattur, Chennai-600 053, is quashed and the respondents are directed to set him at liberty forthwith, unless he is required to be incarcerated in connection with some other case.

Sd/-

Asst.Registrar (CS VIII)

/true copy/

Sub Asst. Registrar

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-9.
- 3.The Commissioner of Police, Greater Chennai Police, Vepery, Chennai-600 007
- 4.The Superintendent, Central Prison, Puzhal, Chennai.I(In Duplicate)
- 5.The Public Prosecutor, High Court, Madras