

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 21.07.2017

CORAM

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

H.C.P.No.73 of 2017

Kalaiselvi

.. Petitioner

Vs

1.The State of Tamil Nadu rep. by its
Secretary to Government [Home],
Prohibition and Excise Department,
Government of Tamil Nadu,
Secretariat, Chennai-9.

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

.. Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS, to direct the respondents to produce the body of the petitioner's husband namely Ramakrishnan, aged 30 years, S/o.Ramasamy, who is detained in Central Prison, Salem, before this Hon'ble Court and set him at liberty forthwith by calling for the records pursuant to the Detention Order made in C.M.P.No.23/Goonda/C2/2016 dated 24.08.2016 on the file of the 2nd respondent and quash the same.

For Petitioner : Mr.R.Nalliyappan
For Respondents : Mr.V.M.R.Rajentren,
Additional Public Prosecutor

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 records relating to the detention order passed in C.M.P.No.23/Goonda/C2/2016 dated 24.08.2016 by the Detaining Authority against the detenu by name, Ramakrishnan, aged 30 years, S/o.Ramasamy, residing at VRO, Senkadu, Yercaud, Yercaud Taluk, Salem District and quash the same.

2. The Inspector of Police, Yercaud 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. Yercaud Police Station Crime No.289/2015 registered under Sections 392 of IPC @ 395 r/w 397 of Indian Penal Code.
- ii. Yercaud Police Station Crime No.49/2016 registered under Sections 457, 380 of IPC @ 395 of Indian Penal Code.
- iii. Yercaud Police Station Crime No.53/2016 registered under Sections 392 of IPC @ 395 r/w 397 of Indian Penal Code.

3. Further, it is averred in the affidavit that on 12.07.2016, one Muthu, S/o.Chinnappan, residing at 5 Roads, Yercaud, Salem District, as de facto complainant has given a complaint in Yercaud Police Station, wherein, it is stated that in the place of occurrence, the detenu had shown deadly weapon and snatched a sum of Rs.1,000/- from the de facto complainant and also threatened him and consequently, a case has been registered in Crime No.111/2016 under Sections 341, 392 r/w 397, 427 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 documents, has arrived at a subjective satisfaction that the detenu is a habitual offender and ultimately, branded him as goonda by passing the impugned Detention Order and in order to quash the same, the wife of the detenu has filed the present petition as petitioner.

5. Despite repeated adjournments, on the side of the respondents, counter has not been filed.

6. Learned counsel appearing for the petitioner has contended to the effect that on the side of the detenu, 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 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, 14 clear working days are available. Likewise, in between column Nos.12 and 13, 3 clear working days are available and no explanation has been given on the side of the respondents and that would itself 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 24.08.2016 passed in C.M.P.No.23/Goonda/C2/2016 by the Detaining

Authority against the detenu by name, Ramakrishnan, aged 30 years, S/o.Ramasamy, is quashed and directed to set him at liberty forthwith, unless he is required to be incarcerated in any other case.

[A.S., J.] [P.K., J.]
21.07.2017

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To

1.The Secretary to Government [Home],
Prohibition and Excise Department,
Government of Tamil Nadu,
Secretariat, Chennai-9.

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

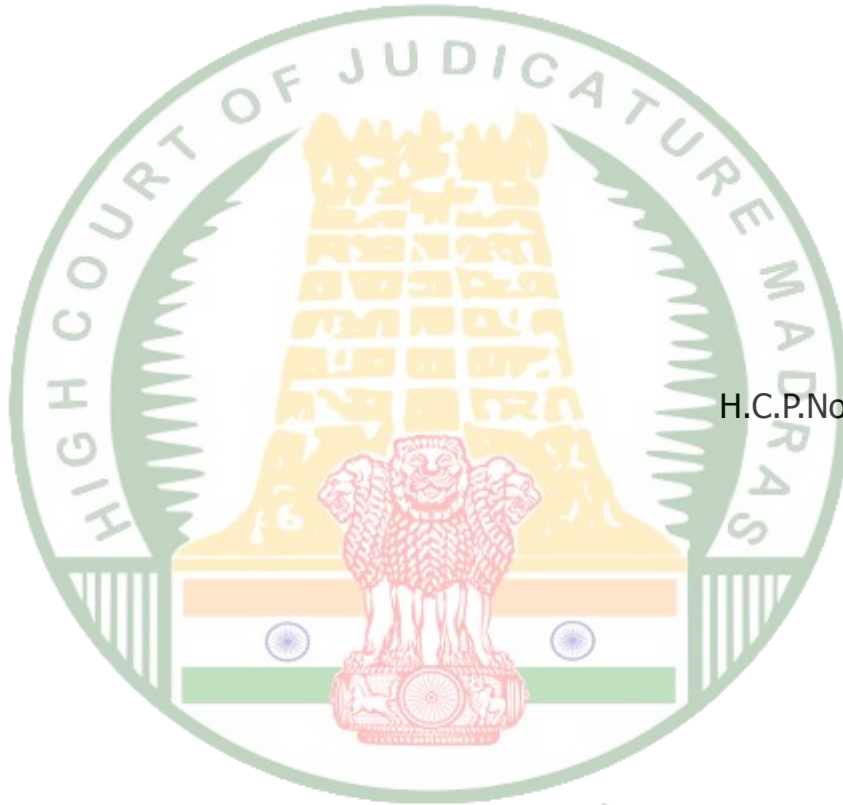
3.The Public Prosecutor,
High Court, Madras.



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A.SELVAM, J.
and
P.KALAIYARASAN, J.

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