

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.08.2017

CORAM:

THE HON'BLE MR.JUSTICE A.SELVAM
AND
THE HON'BLE MR.JUSTICE P.KALAIYARASAN

H.C.P.No.740 of 2017

Napoleon

.... Petitioner/
Defendants

vs.

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

2.Commissioner of Police,
Greater Chennai.

.... Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of habeas corpus calling for the records in connection with the order of detention passed by the second respondent dated 05.04.2017, in Memo No.128/BCDFGISSSV/2017, against the detenu Napeoleon, male, aged 25 years, son of Abragamlingam, who is confined at Central Prison, Puzhal-II, Chennai and set aside the same and direct the respondents to produce the detenu before the Hon'ble Court and set him at liberty.

For Petitioner : Mr.S.Senthilvel

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 Memo No.128/BCDFGISSSV/2017, dated 05.04.2017, by the detaining authority against the detenu, by name Napoleon, S/o Abragamlingan, aged 25 years, residing at No.V-28, Chenthamiz

Street, Chelliamman Nagar, Thiruverkadu, Chennai-600 077 and quash the same.

2. The Inspector of Police, Arumbakkam 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. K-4 Anna Nagar Police Station, Cr.No.81/2017 registered under Sections 379 of the Indian Penal Code.

ii. K-8, Arumbakkam Police Station, Cr.No.208 of 2017, registered under Section 379 of the Indian Penal Code.

iii. K-4 Anna Nagar Police Station, Cr.No.172/2017, registered under Section 379 of the Indian Penal Code.

3. Further, it is averred in the affidavit that on 22.02.2017, one Murugan, aged 28 years, son of Muniyanathan, residing at No.223, P.P.Thottam, 11th Street, Aminjikarai, Chennai-29, as defacto complainant, has given a complaint against the detenu, wherein it is stated to the effect that in the place of occurrence, by showing a knife, the detenu has forcibly taken away a sum of Rs.1200/- and a Cell-phone from the custody of the defacto complainant and further he has created panic in the minds of the general public and also damaged public properties and under such circumstances, a case has been registered in Crime No.405 of 2017, under Sections 341, 294(b), 323, 336, 397 and 506(ii) of the Indian Penal Code and also under Section 3 of TNPPDL Act 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 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 detenu himself has filed the present petition.

5. In spite of repeated adjournments, counter has not been filed on the side of the respondents. Under such circumstances, this petition is disposed of on merits on the basis of available records.

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 and 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 that the representation submitted by the detenu has already been disposed of without delay and therefore, the detention order in question need not be quashed.

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, three clear working days are available and in between Column Nos.12 and 13, twenty 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 05.04.2017 passed in No.128/BCDFGISSSV/2017 by the detaining authority against the detenu, by name Napoleon, S/o Abagamlingan, aged 25, residing at No.V-28, Chenthamiz Street, Chelliamman Nagar, Thiruverkadu, Chennai, 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 II)

/true copy/

सत्यमेव जयते
Sub Asst. Registrar

msk

To

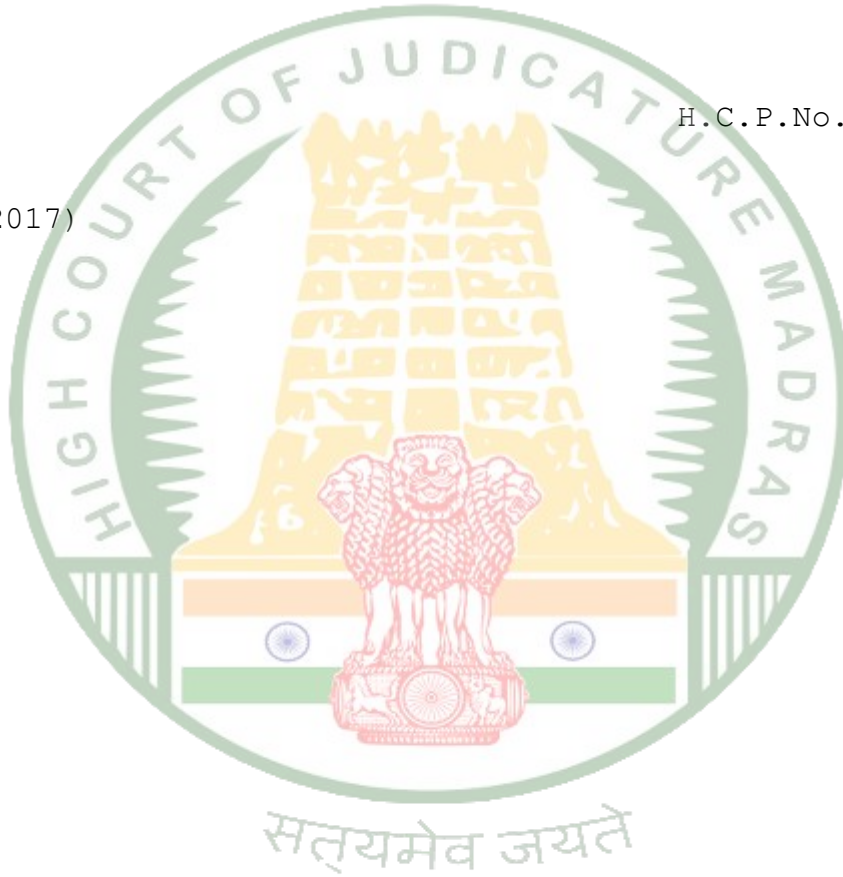
1. The Joint Secretary to Government of
Tamil Nadu, Public (Law and Order)
Department,
Secretariat, Chennai-9.

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2. The Secretary
Home, Prohibition and Excise Department,
Fort St. George, Chennai 9
3. The Commissioner of Police,
Greater Chennai.
4. The Superintendent of Prison,
Central Prison, Puzhal, Chennai.
5. The Public Prosecutor,
High Court, Madras

H.C.P.No.740 of 2017

GJII(CO)
VR(09/08/2017)



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