

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.756 of 2017

Padmavathi

....Petitioner/Mother of the
detenu

vs.

1.The State of Tamil Nadu rep.by
the Secretary to Government,
Home, Prohibition & Excise Department,
Fort St.George,
Chennai-600 009.

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

... Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of habeas corpus calling for the records relating to the detention of the petitioner's son Selvam @ Tamilselvam, son of Ulaganathan, aged about 21 years, is presently lodged in Central Prison, Puzhal at Chennai and has been detained under Act 14/82, as a Goonda, vide detention order dated 19.04.2017, on the file of the 2nd respondent herein made in Memo No.32/BCDFGISSSV/2017, quash the same and consequently direct the respondents herein to produce the body and person of the said detenu before this Court and thereafter set him at liberty from the Central Prison, Puzhal, Chennai.

For Petitioner : Mr.M.Rajavelu

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.BCDFGISSSV/2017 No.32/2017, dated 19.04.2017, by the detaining authority against the detenu, by name Selvam @ Tamilselvan, aged 21 years, son of Ulaganathan, residing at No.7/361, Ambedkar Street, Pareri Village, Singaperumalkoil,

Chengalpattu Taluk, Kancheepuram District and quash the same.

2. The Inspector of Police, Maraimalai Nagar 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. Maraimalai Nagar Police Station Cr.No.908 of 2016, registered under Sections 341, 294(b), 323, 324, 307 of the Indian Penal Code.
- ii. Maraimalai Nagar Police Station Cr.No.222 of 2017, registered under Sections 147, 148, 341, 294(b), 323, 324, 307, 506(ii) of the Indian Penal Code read with Section 4 of the Tamil Nadu Property (Prevention of Damage & Loss) Act, 1992.

3. Further, it is averred in the affidavit that on 19.03.2017, one Durairaj, aged 30 years, son of Govindhan, residing at No.10/146, Pillaiyarkoil Street, Thirutheri, Singaperumalkoil, as defacto complainant, has given a complaint in Maraimalai Nagar Police Station, wherein it is alleged to the effect that in the place of occurrence, the detenu and others have illegally restrained the defacto complainant and by using filthy words and also by showing deadly weapons, forcibly taken away a sum of Rs.5000/- from the shirt pocket of the defacto complainant and consequently, a case has been registered in Crime No.223 of 2017, under Sections 341, 294(b), 392, 397, 307, 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, two representations are submitted, but the same have 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 representations submitted on the side of the detenu have 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 respect of the first representation in between Column Nos.7 to 9, twenty nine clear working days are available and in respect of the second representation, in between Column Nos.7 to 9, five clear working days are available and in between Column Nos.12 and 13, seven 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 19.04.2017, passed in BCDFGISSSV No.32/2017, by the detaining authority against the detenu, by name Selvam @ Tamilselvan, aged 21 years, S/o Ulaganathan, residing at 7/361, Ambedkar Street, Pareri Village, Singaperumalkoil, Chengalpattu Taluk, Kancheepuram District, 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/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

msk

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 District Collector and
District Magistrate,
Kancheepuram District,
Kancheepuram

4.The Superintendent,
Central Prison,
Puzhal, Chennai.

5.The Public Prosecutor,
High Court, Madras

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