

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.767 of 2017

Seethalakshmi .. Petitioner/Wife of the detenue

Vs

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

2. The Commissioner of Police
Greater Chennai Police .. 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 04.04.2017 in Memo No.124/BCDFGISSSV/2017 against the petitioner husband Srinivasan, male, aged 39 years, S/o.Murugesan, who is confined at Central Prison, Puzhal II, Chennai and set aside the same and direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner : Mr.S.Senthilvel

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

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 the records relating to the detention order passed in BCDFGISSSV No.124/2017 dated 04.04.2017, against the detenu by name, Srinivasan, aged 39 years, S/o.Murugesan, residing at No.60/90, Thangavel Street, Jafferkanpet, K.K.Nagar, Chennai- 600 083 and quash the same.

2. The Inspector of Police, S-4 Nandambakkam 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) S-1 St. Thomas Mount Police Station, Crime No.1782 of 2016, under Section 394 of Indian Penal Code;

ii) S-4 Nundambakkam Police Station, Crime No.20 of 2017, registered under Sections 454 and 511 of Indian Penal Code; and

iii) S-4 Nandambakkam Police Station, Crime No.112 of 2017, registered under Section 454 and 380 of Indian Penal Code.

3. Further it is averred in the affidavit that on 15.02.2017 one Sudhakar, aged 35 years, S/o.Murthi, residing at No.2/224, 2nd Street, Ambedkar Nagar, Manapakkam, Chennai, as defacto complainant, has given a complaint in S-4 Nungambakkam Police Station wherein it is alleged that in the place of occurrence, the detenu has attacked the defacto complainant and forcibly taken away a sum of Rs.500/- and a cellphone from his custody and also threatened him by showing a deadly weapon. Under such circumstance, a case has been registered in Crime No.183 of 2017 under Sections 341, 294(b), 323, 336, 392, 397 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 perusing the averments made in the affidavit and other connected documents, has derived a subjective satisfaction to the effect that the detenu is a habitual offender and ultimately, branded him as "Goonda" by way of passing the impugned Detention Order and in order to quash the same, the present petition has been filed by the wife of the detenu, as petitioner.

5. On the side of the respondents, counter has not been filed. Under such circumstance, this petition is disposed of on merits on the basis of available materials on record.

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, but the same has not been disposed of without delay and therefore, the Detention Order in question is liable to be quashed.

7. The learned Additional Public Prosecutor 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 put forth 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, 8 clear working days are available and in between column Nos.12 and 13, 15 clear working day is available and no explanation has been given on the side of the respondents with regard to such delay and that the same would affect the rights of the detenu guaranteed under Article 22(5) of the Constitution of India.

9. In fine, this Habeas Corpus Petition is allowed and the Detention Order dated 04.04.2017 passed in BCDFGISSSV No.124/2017 by the second respondent against the detenu by name, Srinivasan, aged 39 years, S/o.Murugesan is quashed and directed to set him at liberty forthwith unless he is required to be incarcerated in any other case.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

gpa

To

- 1.The Secretary to the Government
Home, Prohibition and Excise Department
Secretariat
Chennai - 600 009
2. The Commissioner of Police
Greater Chennai Police
- 3.The Superintendent
Central Prison
Puzhal, Chennai-600 066
[in duplicate for communication to the detenu]
- 4.The Joint Secretary to Government of Tamil Nadu,
Public [Law and Order] Department,
Secretariat, Chennai-9.
- 5.The Public Prosecutor,
High Court, Madras.

H.C.P.No.767 of 2017

KJ(CO)
GN(14/09/2017)