

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 01.08.2017

CORAM

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

H.C.P.No.783 of 2017

Minipriya

.. Petitioner

Vs

1.State of Tamil Nadu

Rep. By its Secretary to Government
Home, Prohibition and Excise Department
Fort St.George
Chennai

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, to call for entire records, relating to petitioner's father detention under Tamil Nadu Act 14 of 1982 vide detention order dated 05.04.2017 on the file of the second respondent herein made in Proceedings No.125/BCDFGISSSV/2017 and quash the same as illegal and consequently direct the respondents herein to produce the said petitioner's father namely Mohan Reddy, aged 49 years, Son of Subba Reddy, detained at Central Prison-II, Puzhal, Chennai - 600 066 before this Court and set him at liberty.

For Petitioner : Mr. C.C.Chellappan

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 No.125/BCDFGISSSV/2017 dated 05.04.2017, against the detenu by name, Mohan Reddy, aged 49 years, S/o.Subba Reddy, residing at No.8, 4th Street, Saraswathy Nagar, Nerkundram, Chennai - 600 106 and quash the same.

2. The Inspector of Police, Anti Vice Squad-I, as Sponsoring Authority, has submitted an affidavit to the Detaining Authority, wherein, it is averred that the detenu has involved in the following adverse case:-

1. Anti Vice Squad-I, Crime No.84 of 2016, registered under Sections 3(2)a, 4(1), 5(1)a, 6(1) and 7(1) of ITP Act;
2. Anti Vice Squad-I, Crime No.121 of 2016, registered under Sections 3(2)a, 4(1) and 5(1)a of ITP Act;
3. Anti Vice Squad-I, Crime No.23 of 2017, registered under Sections 3(2)a, 4(1) and 5(1)a of ITP Act;
4. Anti Vice Squad-I, Crime No.32 of 2017, registered under Sections 3(2)a, 4(1) and 5(1)a of ITP Act;
5. Anti Vice Squad-I, Crime No.36 of 2017, registered under Sections 3(2)a, 4(1), 5(1)a, 6(1) and 7(1) of ITP Act; and
6. Anti Vice Squad-I, Crime No.37 of 2017, registered under Sections 3(2)a, 4(1) and 5(1)a of ITP Act;

3. Further, it is averred in the affidavit that on 15.03.2017, one Arputham, Police Constable and others have watched prostitution business and at that time, the detenu has approached the said Arputham and enquired whether he is willing to have prostitute and consequently, a case has been registered in Crime No.42 of 2017 under Sections 3(2)a, 4(1), 5(1)a, 6(1) and 7(1) of ITP Act and 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 materials, has derived

a subjective satisfaction to the effect that the detenu is in the habit of committing the offence one after another and ultimately, branded him as "Immoral Traffic Offender" by way of passing the impugned Detention Order and in order to quash the same, the present petition has been filed by the daughter of the detenu, as petitioner.

5. On the side of the respondents, a counter has been filed, wherein, it is contended 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 the relevant materials and other connected papers, has rightly derived a subjective satisfaction to the effect that the detenu is a habitual offender and ultimately passed 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 have been submitted, but the same have 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 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 has been clearly stated that in respect of first representation, in between column Nos.7 and 9, 9 clear working days and in between Column Nos.12 and 13, 20 clear working days are available and likewise, in respect of second representation, in between column numbers 7 and 9, 3 clear working days are available and in between column Nos.12 and 13, 19 clear working days are available and no explanation has been given on the side of the respondents with regard to such huge delay and that 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.

9. In fine, this Habeas Corpus Petition is allowed and the Detention Order dated 05.04.2017 passed in No.125/BCDFGISSSV/2017 by the second respondent against the detenu by name, Mohan Reddy, aged 49 years, S/o.Subba Reddy, residing at No.8, 4th Street, Saraswathy Nagar, Nerkundram, Chennai - 600 106 is quashed and directed to set him at liberty forthwith unless he is required to be incarcerated in any other case.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

gpa

To

- 1.The Joint Secretary to Government of Tamil Nadu,
Public [Law and Order] Department,
Secretariat, Chennai-9.
- 2.The Secretary to Government,
Government of Tamil Nadu,
Home, Prohibition and Excise Department,
Secretariat, Chennai-9.
- 3.The Commissioner of Police
Greater Chennai Police
Vepery, Chennai - 600 007
- 4.The Superintendent,
Central Prison -II,Puzhal,Chennai
[in duplicate for communication to the detenu]
- 5.The Public Prosecutor,
High Court, Madras.

H.C.P.No.783 of 2017

MV (CO)
CU (02/08/2017)