

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 25.07.2017

CORAM

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

H.C.P.No.79 of 2017

Vasanthi

... Petitioner

Vs

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

2.The Commissioner of Police,
Greater Chennai,
Vepery, Chennai-7.

... Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS, to call for the records of the detention made in Memo No.938/BCDFGISSSV/2016 dated 20.08.2016 passed by the Commissioner of Police, Greater Chennai Police, Vepery, Chennai-7 the 2nd respondent herein and set aside the same and direct the respondents to produce the detenu before this Hon'ble Court and set the detenu Prabhu @ Kili Prabhu, aged 34 years, S/o.Kujiliraj, now confined in Central Prison, Puzhal II, Chennai at liberty.

For Petitioner : Mr.K.Kannan

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

WEB COPY

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 records relating to the detention order passed in No.938/BCDFGISSSV/2016 dated 20.08.2016 by the Detaining Authority against the detenu by name, Prabhu @ Kili Prabhu, aged 34 years, S/o.Kujiliraj, residing at No.803, K-Block, East Cemetery Road, Washermenpet, Chennai-21 and quash the same.

2. The Inspector of Police, M-5 Ennore 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. T-13 Kundrathur Police Station Crime No.734/2015 registered under Sections 147, 148, 353, 307 and 506[ii] of Indian Penal Code r/w 4 and 5 of Indian Explosive Substances Act, 1908 and 25[1-b] of Arms Act.
- ii. M-5 Ennore Police Station Crime No.1496/2015 registered under Sections 147, 148, 341 and 307 of Indian Penal Code.
- iii. M-5 Ennore Police Station Crime No.403/2016 registered under Sections 341, 294[b], 384 and 506[i] of Indian Penal Code.
- iv. M-5 Ennore Police Station Crime No.407/2016 registered under Sections 341, 294[b], 336, 427, 392 r/w 397 and 506 [ii] of Indian Penal Code.

3. Further, it is averred in the affidavit that on 23.06.2016, one Sudarmani, aged 32 years, S/o.Devaraj, residing at No.75, Kanni Koil 2nd Street, Thiruvottiyur, Chennai-19 as de facto complainant has given a complaint in M-5 Ennore Police Station, wherein, it is stated that in the place of occurrence, the detenu has snatched a sum of Rs.1,500/- and also a wrist watch from the de facto complainant by showing a knife and consequently, a case has been registered in Crime No.795/2016 under Sections 341, 294[b], 336, 427, 392 r/w 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 considering the averments made in the affidavit and other connected documents, has arrived at 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, a counter has been filed, wherein, it has been contended to the effect that most of the averments made in the petition are false. The Sponsoring Authority has supplied all the materials to the Detaining Authority. The Detaining Authority after considering all the materials and other connected papers, has arrived at 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. Learned counsel appearing for the petitioner has contended to the effect that after making arrest, the detenu has given a voluntary confession statement and in the booklet, the same is not readable and the same could affect the rights of the detenu. Under such circumstances, the Detention Order in question is liable to be quashed.

7. Per contra, learned Additional Public Prosecutor has contended to the effect that in the booklet, all relevant material papers are readable and therefore, the contention put forth on the side of the petitioner is liable to be rejected.

8. In fact, the Court has perused a copy of the confession statement alleged to have been given by the detenu, wherein, in some places, the letters are not readable and the same would really affect the rights of the detenu in submitting representation and in the said circumstances, the Detention Order in question is liable to be quashed.

9. In fine, this petition is allowed. The Detention Order dated 20.08.2016 passed in No.938/BCDFGISSSV/2016 by the Detaining Authority against the detenu by name, Prabhu @ Kili Prabhu, aged 34 years, S/o.Kujiliraj, 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 VII)

//True Copy//

Sub Assistant Registrar

gya

To

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

2.The Commissioner of Police,
Greater Chennai,
Vepey, Chennai-7.

3.The Public Prosecutor,
High Court, Madras.

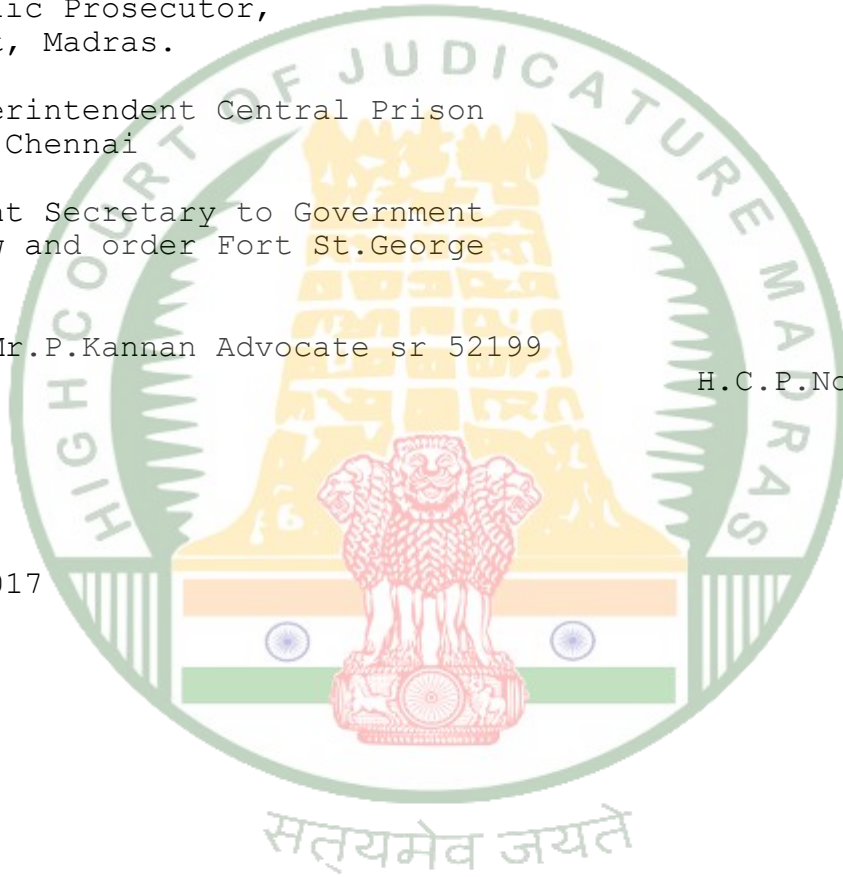
4.The Superintendent Central Prison
Puzhal II Chennai

5.The Joint Secretary to Government
Public Law and order Fort St.George
Chennai

+1 cc to Mr.P.Kannan Advocate sr 52199

H.C.P.No.79 of 2017

rj(co)
aa25/07/2017



WEB COPY