

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 04.08.2017

CORAM

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

H.C.P.No.803 of 2017

A.Jothilakshmi

.. Petitioner

Vs

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

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

... Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS, to call for the records in connection with the order of Detention passed by the 2nd respondent dated 13.04.2017 in BCDFGISSSV No.29/2017 against the petitioner's husband Dhanusu @ Harikrishnan, aged 42 years, S/o.Annamalai, 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.Senthil Vel

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 records relating to the detention order passed in BCDFGISSSV No.29/2017 dated 13.04.2017 by the Detaining Authority against the detenu by name, Dhanusu @ Harikrishnan, aged 42 years, S/o.Annamalai,

residing at No.58, Kuselar Street, Paramasivam Nagar, Thirukalukundram & Taluk, Kancheepuram District and quash the same.

2. The Inspector of Police, Thirukalukundram 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. Prohibition Enforcement Wing, Mamallapuram Crime No.100/2016 registered under Sections 4[1][aaa] of Tamil Nadu Prohibition Act r/w Sections 6 and 11 of Rectified Spirit Rules 2000.

ii. Prohibition Enforcement Wing, Mamallapuram Crime No.104/2016 registered under Sections 4[1][aaa] of Tamil Nadu Prohibition Act r/w Sections 6 and 11 of Rectified Spirit Rules 2000.

iii. Thirukalukundram Police Station Crime No.514/2016 registered under Sections 4[1][aaa] of Tamil Nadu Prohibition Act r/w Sections 6 and 11 of Rectified Spirit Rules 2000.

iv. Thirukalukundram Police Station Crime No.31/2017 registered under Sections 4[1][aaa] and 4[1-A] of Tamil Nadu Prohibition Act r/w Sections 6 and 11 of Rectified Spirit Rules 2000.

3. Further, it is averred in the affidavit that on 24.03.2017, the Inspector of Police, Thirukalukundram Police Station, on the basis of reliable information, has rushed to the place of occurrence and in the place of occurrence, the detenu has been found in possession of 1050 numbers of 100 ml rectified spirit packets without having licence and consequently, a case has been registered in Crime No.167/2017 under Sections 4[1][aaa] and 4[1-a] of Tamil Nadu Prohibition Act r/w Sections 6 and 11 of Rectified Spirit Rules 2000 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 that the detenu is a habitual offender and ultimately, branded him as bootlegger 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. Despite repeated adjournments, on the side of the respondents, counter has not been filed. Under such circumstances, the present Habeas Corpus Petition is disposed of on merits on the basis of the available materials on record.

6. Learned counsel appearing for the petitioner has contended to the effect that on the side of the detenu, a representation has been submitted to the concerned authorities. But, the same has not been disposed of without delay and therefore, the Detention Order in question is liable to be quashed.

7. Learned Additional Public Prosecutor has contended that the representation submitted on the side of the detenu has been 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 between column Nos.7 and 9, 4 clear working days are available. Likewise, in between column Nos.12 and 13, 10 clear working days are available and no explanation has been given on the side of the respondents 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.

9. In fine, this petition is allowed. The Detention Order dated 13.04.2017 passed in BCDFGISSSV No.29/2017 by the Detaining Authority against the detenu by name, Dhanusu @ Harikrishnan, aged 42 years, S/o.Annamalai is quashed and directed to set him at liberty forthwith, unless he is required to be incarcerated in any other case.

Sd/-

Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

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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-7.

4.The Superintendent,
Central Prison, Puzhal, Chennai.
[in duplicate for communication to the detenu]

5.The Public Prosecutor,
High Court, Madras.

6.The District Magistrate &
District Collector,
Kancheepuram District,
Kancheepuram.

H.C.P.No.803 of 2017

gp(co)
ss(4/8/2017)



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