

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 11.09.2017

CORAM

THE HON'BLE Mr.JUSTICE A.SELVAM
and
THE HON'BLE Mr.JUSTICE S.BASKARAN

H.C.P.No.817 of 2017

Sarasa .. Petitioner/Mother of
the detenue
Vs

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

2.District Collector & District Magistrate,
Krishnagiri District,
Krishnagiri.

... 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 on 09.05.2017 in S.C.No.23/2017 against the petitioner's daughter Thilagavathy, aged 37 years, W/o.Babu, who is confined at Special Prison, for women Vellore and set aside the same and direct the respondents to produce the detenue before this Hon'ble Court and set her 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 S.C.No.23/2017 dated 09.05.2017 by the Detaining Authority against the detenue by name, Thilagavathy, aged 37 years, W/o.Late Babu, residing at Rangapuram Village, Venkatasamuthiram Post, Ambur Taluk, Vellore District and quash the same.

2. The Inspector of Police, Prohibition Enforcement Wing, Krishnagiri as Sponsoring Authority has submitted an affidavit to the Detaining Authority, wherein, it is averred to the effect that on 07.04.2017, on the basis of information received by the Sub Inspector of Police, Prohibition Enforcement Wing, Krishnagiri, the Police party have rushed to Velakalahalli branch road and intercepted a vehicle bearing registration No.TN73 8172 and found two persons namely, Eswaran and Mathiyalagan and they have been interrogated and ultimately, revealed that the said persons and the present detainee have smuggled illicit arrack in the old bottles of TASMAC and consequently, a case has been registered in Crime No.384/2017 registered under Sections 4[1][aaa] r/w 4[1-A] of Tamil Nadu Prohibition Act, 1937 and Sections 468, 471 and 420 of the Indian Penal Code and ultimately, requested the Detaining Authority to invoke Act 14 of 1982 against the detainee.

3. The Detaining Authority after perusing all the relevant records, has arrived at a subjective satisfaction to the effect that the detainee is a habitual offender and ultimately, branded her 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 mother of the detainee as petitioner.

4. 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 perusing all the material records, has arrived at a subjective satisfaction to the effect that the detainee 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.

5. Learned counsel appearing for the petitioner has contended to the effect that the detainee has been supplied with a booklet, wherein, at page Nos.38 and 39, copy of the remand report is available and the same is not readable and therefore, the Detention Order in question is liable to be quashed.

6. Learned Additional Public Prosecutor has contended to the effect that the entire booklet is readable and therefore, the contention put forth on the side of the petitioner is liable to be rejected.

7. In fact, this Court has perused page Nos.38 and 39 of the booklet, wherein, copy of the remand report is available. As rightly pointed out on the side of the petitioner, the said copy is not readable and the same would affect the rights of the

detenue guaranteed under Article 22[5] of the Constitution of India and therefore, the Detention Order in question is liable to be quashed.

8. In fine, this petition is allowed. The Detention Order dated 09.05.2017 passed in S.C.No.23/2017 by the Detaining Authority against the detenue by name, Thilagavathy, aged 37 years, W/o.Late Babu, is quashed and directed to set her at liberty forthwith, unless she is required to be incarcerated in any other case.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant 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,
Home, Prohibition and Excise Department,
Secretariat, Chennai-9.

3.The District Collector & District Magistrate,
Krishnagiri District,
Krishnagiri.

4.The Superintendent,
Special Prison for Women, Vellore.
[in duplicate for communication to the detenue]

5.The Public Prosecutor,
High Court, Madras.

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GN(11/09/2017)