

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 07.09.2017

CORAM

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

H.C.P.No.821 of 2017

Chandran

.. Petitioner

Vs

- 1.The Secretary to the Government,
Department of Consumer Affairs,
Government of India, Krishi Bhavan,
New Delhi-110 001.
 - 2.The Secretary to the Government,
Co-opertion, Food and Consumer Protection Dept.,
Secretariat, Chennai-9.
 - 3.The District Collector and District Magistrate,
Vellore District, Vellore.
- ... 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 3rd respondent dated 02.05.2017 in C3.D.O.No.42/2017 against the petitioner's brother Madhu, aged 36 years, S/o.Purushothaman Naidu who is now confined at Central Prison, Vellore and set aside the same and direct the respondents to produce the detenu before this Hon'ble Court and set him at liberty.

For Petitioner : Mr.S.Senthil Vel
For Respondents : Mr.V.M.R.Rajentren,
R2 & R3 Additional
Public Prosecutor
for R1 Mr. S. Arockiam

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 C3.D.O.No.42/2017 dated 02.05.2017 by the Detaining Authority against the detenu by name, Madhu, aged 36 years, S/o.Purushothaman Naidu, residing

at Lingapuram Village, Pocham Nayanapalli Post, V.Kotta Mandal, Palamaneri Taluk, Chithoor District, Andhra Pradesh and quash the same.

2. The Inspector of Police, Civil Supplies CID, Vellore, 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 case :

i. Civil Supplies CID, Vellore unit Crime No.15/2016, registered under Section 6[4] of TNSC [RDCS] Order 1982 r/w 7[1][a][ii] of EC Act, 1955.

3. Further, it is averred in the affidavit that on 17.03.2017, the Inspector of Police, Civil Supplies CID, Vellore and other police officials have watched PDS rice smuggling. During the course of their watch, they found a vehicle bearing registration No.KA07 A 0819, which contains 202 bags of PDS rice and after observing due formalities, a case has been registered in Crime No.47/2017 under Section 6[4] of TNSC [RDCS] Order 1982 r/w 7[1][a][ii] of EC Act, 1955 and ultimately, requested the Detaining Authority to invoke Act 7 of 1980 against the detenu.

3. The Detaining Authority after considering the averments made in the affidavit and other connected documents, has derived to a subjective satisfaction to the effect that the detenu is a habitual offender and ultimately, branded him as Black Marketeer by way of passing the impugned Detention Order and in order to quash the same, the present petition has been filed by the cousin brother of the detenu as petitioner.

4. On the side of the respondents, counter filed, wherein, it is averred to the effect that most of the averments made in the petition are false. The Sponsoring Authority has submitted all the materials to the Detaining Authority. The Detaining Authority after perusing all the material records and other connected papers, has rightly branded the detenu as Black Marketeer by way of passing 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 on the side of the petitioner, a representation has been submitted, but the same has not been disposed of without delay and therefore, the Detention Order in question is liable to be quashed.

6. Learned Additional Public Prosecutor has contended to the effect 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.

7. On the side of the respondents, a proforma has been submitted, wherein, it is clearly stated that on 18.05.2017, a representation has been submitted to the concerned authorities by the detenu. But so far, the same has not been disposed of 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.

8. In fine, this petition is allowed. The Detention Order dated 02.05.2017 passed in C3.D.O.No.42/2017 by the Detaining Authority against the detenu by name, Madhu, aged 36 years, S/o.Purushothaman Naidu, is quashed and directed to set him at liberty forthwith, unless he is required to be incarcerated in any other case.

s/d-

Assistant Registrar(CS VIII)

True Copy

Sub-Assistant Registrar

gya

To

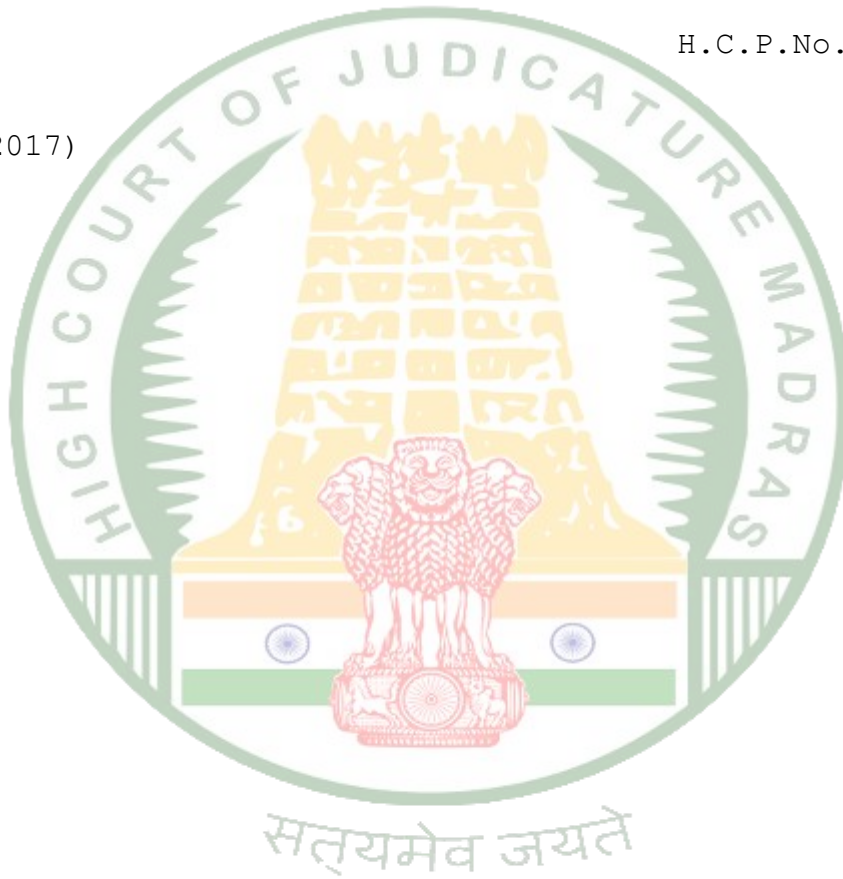
- 1.The Joint Secretary to Government of Tamil Nadu,
Public [Law and Order] Department,
Secretariat, Chennai-9.
- 2.The Secretary to the Government,
Department of Consumer Affairs,
Government of India, Krishi Bhavan,
New Delhi-110 001.
- 3.The Secretary to the Government,
Co-operation, Food and Consumer Protection Dept.,
Secretariat, Chennai-9.
- 4.The District Collector and District Magistrate,
Vellore District, Vellore.
- 5.The Superintendent,
Central Prison, Vellore.
[in duplicate for communication to the detenu]

6.The Public Prosecutor,
High Court, Madras.

+1 CC to Mr.C. Prakasam, Advocate sr 65293
+1 Cc to Mr.S. Arockiam, advocate sr 65021.

H.C.P.No.821 of 2017

SCD(CO)
sp(11/09/2017)



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