

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.825 of 2017

M.Bharath Kumar ... Petitioner

Vs

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

2.The Commissioner of Police,
Greater Chennai.

... 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 23.03.2017 in Memo No.72/BCDFGISSSV/2017 against the detenu Kamaraj, aged 42 years, S/o.Manackraj, 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

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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.72/BCDFGISSSV/2017 dated 23.03.2017 by the Detaining Authority against the detenu

by name, Kamaraj, aged 42 years, S/o.Manackraj, residing at 32, Kariyappa Street, Purasaiwalkam, Chennai-7 and quash the same.

2. The Inspector of Police, Team-3, EDF-II Wing, Central Crime Branch, Greater Chennai 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. CCB Crime No.141/2014 registered under Sections 406, 420, 506[i] of IPC and Sections 3, 4 and 9 of TNPCE Interest Act, 2003.
- ii.E-3 Teynampet Police Station Crime No.652/2017 registered under Sections 201, 294[b], 323, 406, 409, 420, 506[ii] of IPC r/w Section 4 of TNPCE Interest Act, 2003.

3. Further, it is averred in the affidavit that on 08.03.2017, one Dr.Gayathri Devi, W/o.Sudheer, as de facto complainant has given a complaint to the Inspector of Police, Team-3, EDF-II Wing, CCB, Greater Chennai against the detenu, wherein, it is averred to the effect that the detenu has demanded an exorbitant interest for the loan amount received by her husband and further, it is averred in the complaint that the detenu and his henchmen have misused blank cheques and consequently, a case has been registered in CCB Crime No.66/2017 under Sections 420, 465, 467, 468, 471, 342 and 120[b] 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 that the detenu is a habitual offender and ultimately, branded him as goonda by passing the impugned Detention Order and in order to quash the same, the present petition has been filed by the brother of the detenu as petitioner.

5. On the side of the respondents, a counter has been 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 materials, 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 call for any interference and therefore, the present petition deserves to be dismissed.

6. Learned counsel appearing for the petitioner has contended to the effect that on the side of the detenu, four

representations have been submitted to the concerned authorities. But, the same are not 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 representations submitted by the petitioner 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 1st representation, in between column Nos.12 and 13, 27 clear working days are available. Likewise, in respect of 2nd representation, in between column Nos.12 and 13, 22 clear working days are available. In respect of 3rd representation, in between column Nos.12 and 13, 20 clear working days are available. Likewise, in respect of 4th representation, in between column Nos.12 and 13, 20 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 23.03.2017 passed in No.72/BCDFGISSSV/2017 by the Detaining Authority against the detenu by name, Kamaraj, aged 42 years, S/o.Manackraj 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

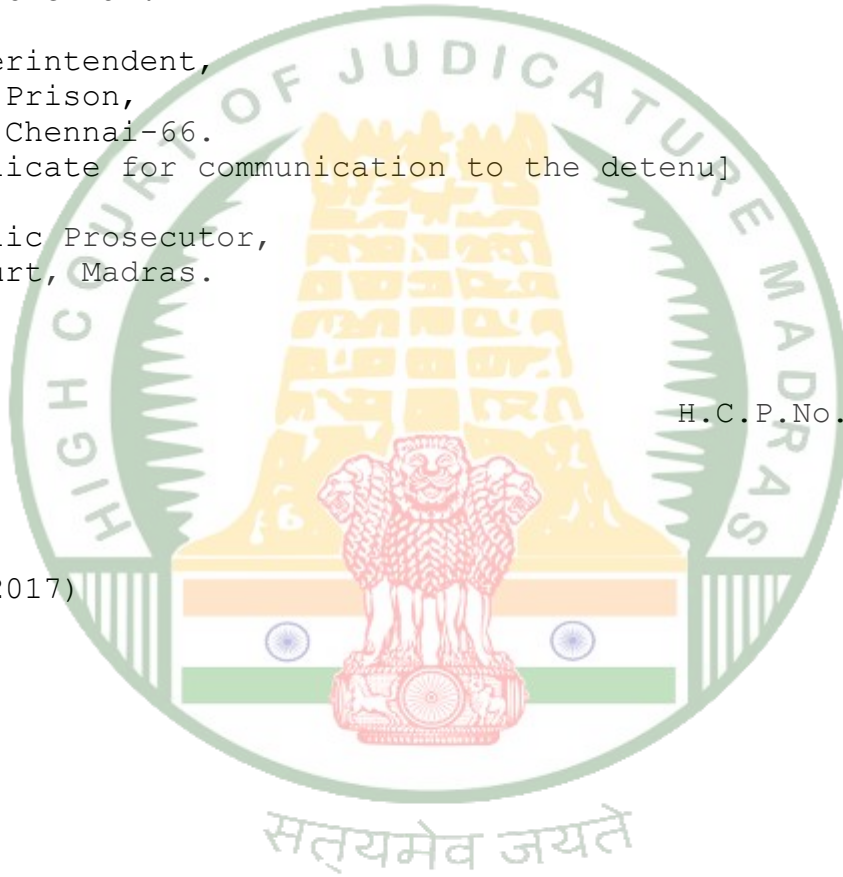
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To

- 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 Commissioner of Police,
Greater Chennai.
- 4.The Superintendent,
Central Prison,
Puzhal, Chennai-66.
[in duplicate for communication to the detenu]
- 5.The Public Prosecutor,
High Court, Madras.

H.C.P.No.825 of 2017

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



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