

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 02.08.2017

CORAM

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

H.C.P.No.851 of 2017

Mrs.Rahamath Banu

.. Petitioner

Vs

- 1.The Commissioner of Police
Greater Chennai, Chennai Police
No.132, Commissioner Office Building
EVK Sampath Road, Vepery
Periyamet
Chennai - 600 007
- 2.The Government of Tamil Nadu
Rep. by its Principal Secretary
Home, Prohibition and Excise Department
Secretariat, Chennai - 600 009
- 3.The Superintendent of Central Prison
Puzhal, 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 relating to the detention order dated 29.04.2017 passed by the first respondent in No.BCDEFGISSV No.217 and quash the same and consequently direct the respondents to produce the body of the detenu Mohammed Yusuf, son of Tippu Sultan, now detained in the Central Prison, Puzhal, Chennai before this Court and set him at liberty forthwith.

For Petitioner : Mr.M.Abdul Nazeer

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.217 of 2017 dated 29.04.2017 by the Detaining Authority against the detenu by name, Mohammed Yusuf, aged 33 years, S/o.Tippu Sulthan, No.94/101, Nethaji Nagar, 3rd Street, Tondiyarpet, Chennai - 600 081 and quash the same.

2. The Inspector of Police, Central Crime Branch, Team X, Video Piracy Cell, Greater Chennai, Egmore, Chennai -8, as Sponsoring Authority, has submitted an affidavit to the Detaining Authority, wherein, it is averred to the effect that on 22.04.2017, the concerned Sub-Inspector of Police and others have made video piracy check up. At that time, they found the detenu in possession of DVDs without copyright and consequently, a case has been registered in Crime No.113 of 2017, under Sections 52(A), 68(A), 51 r/w. 63(a) and 65 of Copy Right Act, 1957 and 292(2)(a) of Indian Penal Code and ultimately requested the Detaining Authority to invoke Act 14 of 1982 against the detenu.

3. The Detaining Authority, after considering the averments made in the affidavit and other connected papers, has derived a subjective satisfaction to the effect that the detenu is in the habit of making DVDs without copyright and ultimately, branded him as "Video Pirate" 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.

4. In the counter filed on the side of the respondents, it is averred that the Sponsoring Authority has submitted all the materials to the Detaining Authority. The Detaining Authority, after considering all the relevant materials and other connected papers, has derived a subjective satisfaction to the effect that in the place of occurrence, the detenu has made DVDs without copyright and ultimately, branded him as "Video Pirate" by way of passing the impugned Detention Order 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 detenu, two representations are submitted, but, the same have 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 that the representations submitted on the side of the detenu are duly disposed of without delay and therefore, the contention put forth 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 has been clearly stated that in respect of first representation, in between column Nos.7 and 9, four clear working days are available and in between column Nos.12 and 13, eleven clear working days are available and likewise, in respect of second representation, in between column Nos.7 and 9, five clear working days are available and no explanation has been given on the side of the respondents with regard to such delay 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 29.04.2017 passed in BCDFGISSSV No.217/2017 by the first respondent against the detenu by name, Mohammed Yusuf, aged 33 years, S/o.Tippu Sulthan, residing at No.94/101, Nethaji Nagar, 3rd Street, Tondiyarpet, Chennai - 600 081 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 IV)

//True Copy//

Sub Assistant Registrar

gpa

सत्यमेव जयते

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To

1.The Joint Secretary to Government of Tamil Nadu,
Public [Law and Order] Department,
Secretariat, Chennai-9.

2.The Commissioner of Police
Greater Chennai, Chennai Police
No.132, Commissioner Office Building
EVK Sampath Road, Vepery
Periyamet
Chennai - 600 007

3.The Government of Tamil Nadu
Rep. by its Principal Secretary
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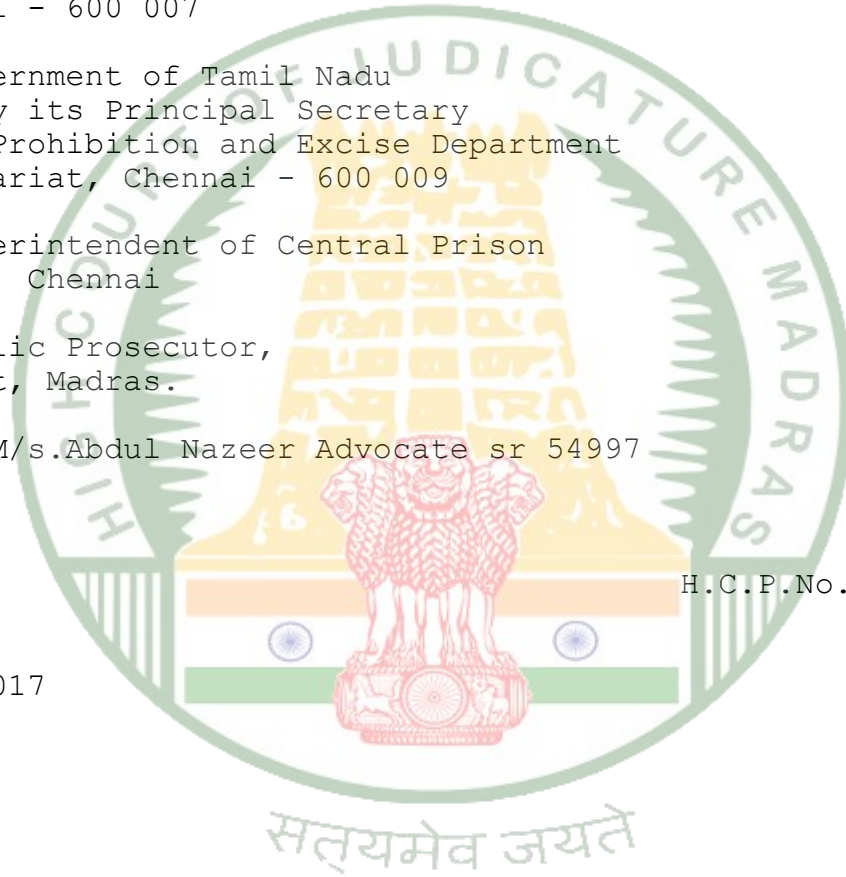
4.The Superintendent of Central Prison
Puzhal, Chennai

5.The Public Prosecutor,
High Court, Madras.

+1 cc to M/s.Abdul Nazeer Advocate sr 54997

H.C.P.No.851 of 2017

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