

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.852 of 2017

Solaiamma

.. Petitioner

Vs

1.The State of Tamil Nadu  
Rep. by its Secretary to Government  
Home, Prohibition and Excise Department  
Fort. St.George, Chennai - 600 009

2. The Commissioner of Police  
Chennai Police  
Vepery, Chennai - 7

.. 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 15.04.2017 passed by the second respondent in No.185/BCDFGISSSV/2017 and quash the same and consequently direct the respondents to produce the body of the petitioner's son Solai @ Arul, Son of Rathinam, aged about 27 years before this Court and set him at liberty from Central Prison, Puzhal, Chennai.

For Petitioner : Mr.M.Rajavelu

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 185/BCDFGISSSV/2017 dated 15.04.2017 by the Detaining Authority against the detenu by name, Solai @ Arul, aged 27 years, S/o.Rathinam, residing at No.24, Pillaiyar Koil Street, Kamarajarpuram, Nandivaram, Guduvanchery, Kancheepuram District and quash the same.

2. The Inspector of Police, T-4, Maduravoyal 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) S-15 Selaiyur Police Station, Crime No.799 of 2013, residing at 365 of Indian Penal Code, altered to Section 147, 120(b), 365, 302, 379 and 201 of Indian Penal Code;

ii) T-4, Maduravoyal Police Station, Crime No.898 of 2016, registered under Section 302 of Indian Penal Code, altered to Section 120(b), 201, 302 r/w.34 of Indian Penal Code.

3. Further it is averred in the affidavit that on 08.03.2017, one Adhikesavan, aged 31 years, S/o.Subramanian, No.18, Om Sakthi Nagar, Vanagaram, Chennai - 95, as defacto complainant, has given a complaint in T-4 Maduravoyal Police Station, wherein it is alleged to the effect that in the place of occurrence, the present detenu and others have forcibly taken a sum of Rs.1700/- from the cash box of the defacto complainant. Further, they have caused panic in the minds of the general public and also threatened them by using deadly weapon. Under such circumstance, a case has been registered in T4 Maduravoyal Police Station in Crime No.459 of 2017 under Sections 341, 294 (b), 336, 427, 397 and 506(ii) 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 papers, has derived a subjective satisfaction to the effect that the detenu is a habitual offender and ultimately, branded him as "Goonda" 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 detenu, as petitioner.

5. In the counter filed on the side of the respondents, wherein it is stated 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 the same and other connected papers, has derived a subjective satisfaction to the effect that the detenu is a habitual offender and ultimately branded him as "Goonda" by way of passing the impugned Detention Order and therefore, the present petition deserves to be dismissed.

6. Learned counsel appearing for the petitioner has contended to the effect that the detenu has been supplied with a booklet, wherein at Page No.59, illegible copy is available and the same would affect the rights of the detenu and therefore, the Detention order in question is liable to be quashed.

7. Learned Additional Public Prosecutor has contended that in the booklet, all legible copies have been furnished to the detenu and no prejudice has been caused to the detenu and therefore, the contention urged on the side of the petitioner is liable to be rejected.

8. In fact, this Court has perused the entire booklet wherein, at Page No.59, Form 91 is available. As rightly pointed out on the side of the petitioner, the same is not readable 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 15.04.2017 passed in 185/BCDEGISSSV/2017 by the second respondent against the detenu by name, Solai @ Arul, aged 27 years, S/o.Rathinam, residing at No.24, Pillaiyar Koil Street, Kamarajarapuram, Nandivaram, Guduvanchery, Kancheepuram District 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-IV)

True Copy

Sub-Assistant Registrar

gpa

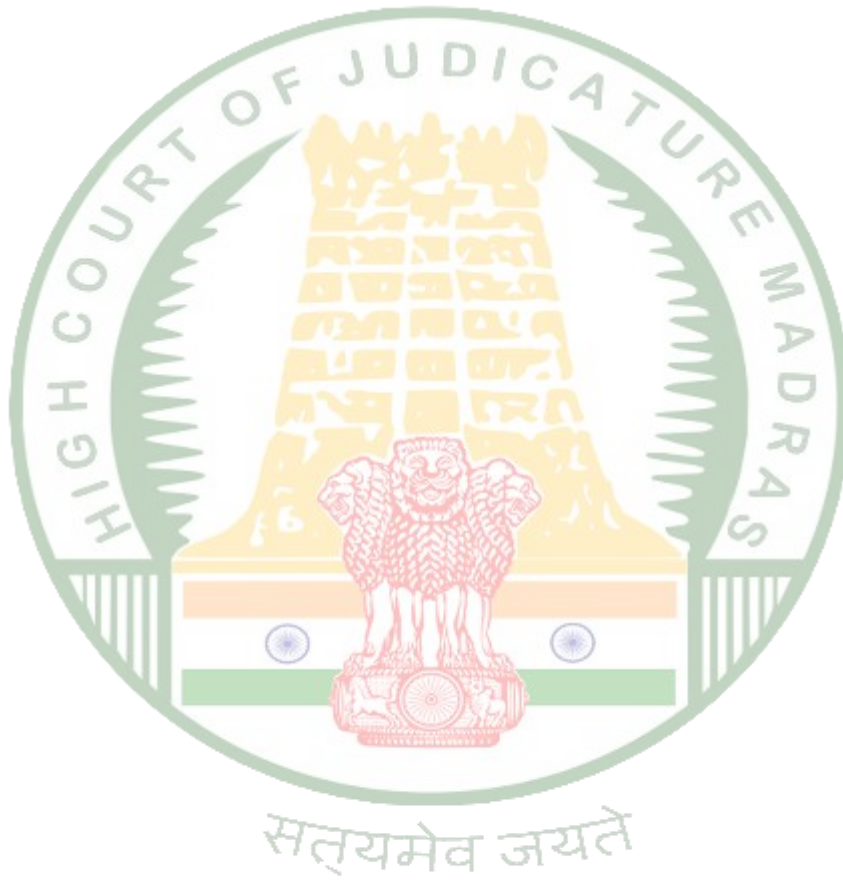
To

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  
Fort. St.George, Chennai - 600 009
3. The Commissioner of Police  
Chennai Police  
Vepery, Chennai - 7
4. The Superintendent of Central Prison  
Puzhal, Chennai

5.The Public Prosecutor,  
High Court, Madras.

H.C.P.No.852 of 2017

SVI (CO)  
SP(02/08/2017)



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