

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 24.05.2017

CORAM

THE HONOURABLE MR. JUSTICE M.M.SUNDRESH

and

THE HONOURABLE JUSTICE R.MAHADEVAN

H.C.P No.88of 2017

Selvi

....Petitioner

Vs

1.The State Represented

By its Secretary to Government, Home,
Prohibition and Excise Department,
Fort St. George,
Chennai 600 009.

2.District Collector and

District Magistrate

Krishnagiri, Krishnagiri District.Respondents

Prayer: Habeas Corpus Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus of any other appropriate writ or direction in the nature of writ calling for the records leading to the detention of the petitioner's Nephew namely Bharathiraja, son of Kantharaj, aged about 25 years under Act 14/1982 vide detention order 10.12.2016 on the file of the second respondent made in proceedings in S.C.No.54/2016, quash the same, consequently direct the respondents herein to produce the body and person of Bharathiraja, son of Kantharaj who is lodged at Central Prison, Salem, before this Honourable Court, set him at liberty.

For Petitioner : Mr. C.D.Sukumar.

For Respondents: Mr.E.Raja,
Additional Public Prosecutor

ORDER

(Order of the Court was made by M.M.Sundresh, J.,)

The petitioner is the nephew of the detenu, who has been detained by the impugned detention order dated 10.12.2016.

2.Learned counsel for the petitioner made two submissions. One is with respect to illegible copies of the paper book given in favour of the detenu and the other is with reference to the non-consideration of representation made on 29.12.2016, which is stated to be received on 31.12.2016.

3.On the second issue, we have directed the learned Additional Public Prosecutor to get specific instructions. Unfortunately, he has reported that no instruction is forthcoming. The matter is pending for nearly five months.

4.Therefore, we take it that the averments made on the afore said issue is not controverted. If that is to be taken into consideration, the detention order cannot be sustained, since, the records would indicate that the representation has been received as early as on 31.12.2016 and the same is pending consideration till date.

5.In such view of the matter, we are of the opinion that the detention order is liable to be set aside.

6.Accordingly, the Habeas Corpus Petition is allowed and the detention order dated 10.12.2016 passed by the 2nd respondent is hereby set aside and the detenu is directed to be released forthcoming unless his presence is required in connection with any other case.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

AP

To

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

2. District Collector and
District Magistrate
Krishnagiri, Krishnagiri District.

3. The Superintendent, Central Prison,
Salem.

4. The Joint Secretary to Government,
Public (Law & Order),
Fort St. George, Chennai-9.

5. The Public Prosecutor,
High Court of Madras.

H.C.P.No.88 of 2017

KJI (CO)
RS (08/06/2017)



WEB COPY