

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 23.08.2017

CORAM

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

H.C.P.No.886 of 2017

Ravikumar @ Ravi
S/o Subramani

.. Petitioner/detenu

Vs

1.The Secretary to Government
Government of Tamil Nadu
Home, Prohibition and Excise Department
Secretariat
Chennai - 600 009

2. The Commissioner of Police
O/o. the Commissioner of Police
Salem City, Salem

.. 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 made in C.M.P.No.95/GOONDA/SALEM CITY/2016 dated 23.12.2016 passed by the Commissioner of Police, Salem City, the second respondent herein against the petitioner/detenu Thiru.Ravikumar @ Ravi aged about 29 years, who is now confined at Central Prison, Salem and set aside the same and produce him before this Court and set him at liberty.

For Petitioner : Mr.M.Sankar

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 the records relating to the detention order passed in

C.M.P.No.95/GOONDA/SALEM CITY/2016 dated 23.12.2016, against the detenu by name, Ravikumar @ Ravi, aged 29 years, S/o.Subramani, Sithi Vinayagar Kovil Street, Old E.B.Office Lane, S.K.Plot, Dadampatty, Salem and quash the same.

2. The Inspector of Police, Ammapet 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) Ammapet Police Station, Crime No.291 of 2015, registered under Sections 341, 392 r/w. 397 and 506(ii) of Indian Penal Code; and

ii) Ammapet Police Station, Crime No.628 of 2016, registered under Sections 457 and 380 of Indian Penal Code.

3. Further it is averred in the affidavit that on 01.12.2016 one Kavitha, aged 38 years, w/o.Saravanakumar, residing at No.63/12, Ellappan Street, Ammapet, Salem, as defacto complainant, has given a complaint against the detenu in Ammapet Police Station wherein it is stated that in the place of occurrence by showing a knife, the detenu has snatched 3 sovereigns of gold chain from the defacto complainant and consequently, a case has been registered in Crime No.631 of 2016 under Sections 341, 392, 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 perusing the averments made in the affidavit and other connected documents, 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 detenu himself, as petitioner.

5. On the side of the respondents, counter has not been filed. Under such circumstance, this petition is disposed of on merits on the basis of available materials on record.

6. The learned counsel appearing for the petitioner has contended to the effect that the detenu has been supplied with a booklet and in most of the places, illegible copies of documents are available and the same would affect the rights of the detenu.

7. The learned Additional Public Prosecutor has contended that in the booklet copies of vital documents are legible and readable and therefore, contention put forth on the side of the petitioner is liable to be rejected.

8. In fact this Court has perused the entire booklet and ultimately found that the copies of document available at Page Nos.132 and 133 are 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 Habeas Corpus Petition is allowed and the Detention Order dated 23.12.2016 passed in C.M.P.No.95/Goonda/Salem City/2016 by the second respondent against the detenu by name, Ravikumar @ Ravi, aged 29 years, S/o.Subramani, Sithi Vinayagar Kovil Street, Old E.B.Office Lane, S.K.Plot, Dadampatty, Salem is quashed and directed to set him at liberty forthwith unless he is required to be incarcerated in any other case.

Sd/-
Asst.Registrar (CS IV)

/true copy/

Sub Asst. 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
Government of Tamil Nadu
Home, Prohibition and Excise Department
Secretariat
Chennai - 600 009
3. The Commissioner of Police
O/o. the Commissioner of Police
Salem City, Salem
4. The Superintendent
Central Prison
Salem
5. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.M.Sankar, Advocate in sr.no.60688

H.C.P.No.886 of 2017

RSI (CO)
NR 23/08/2017