

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 31.08.2017

CORAM

THE HON'BLE Mr.JUSTICE A.SELVAM
and
THE HON'BLE Mr.JUSTICE N.AUTHINATHAN

H.C.P.No.895 of 2017

Jayapradha

.. Petitioner

Vs

1.The District Collector and District Magistrate
Cuddalore District
Cuddalore

2.The Secretary to the Government
of Tamil Nadu
Home, Prohibition and Excise Department
Fort St. George, Chennai -9

.. 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 C3/D.O/16/2017 on the file of the first respondent, quash the detention order dated 28.04.2017 and direct production of the detenu Radhakrishnan, Son of Ranganathan presently detained at Central Prison, Cuddalore before this Court and set him at liberty.

For Petitioner : Mr.A.M.Rahamath Ali

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 C3/D.O/16/2017 dated 28.04.2017 by the Detaining Authority against the detenu by name, Radhakrishnan, aged 40 years, S/o.Renganathan, Pillaiyarkoil Street, KeezhpooVani Kuppam, Alapakkam Post, Kurinjipadi Taluk, Cuddalore District and quash the same.

2. The Inspector of Police, Prohibition Enforcement Wing, Harur, 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) Cuddalore Prohibition Enforcement Wing, Crime No.171 of 2015, registered under Sections 4(1)(a) and 4(1-A) of TNP Act;

ii) Chidambaram Prohibition Enforcement Wing, Crime No.206 of 2016, registered under Sections 4(1)(a) and 4(1-A) of TNP Act; and

iii) Chidambaram Prohibition Enforcement Wing, Crime No.105 of 2017, registered under Sections 4(1)(a) of TNP Act

3. Further it is averred in the affidavit that on 18.03.2017, the Inspector of Police, Prohibition Enforcement Wing, have conducted prohibition raid and ultimately found that the detenu is in possession of illicit liquor without having licence and after observing due formalities, a case has been registered in Crime No.159 of 2017, under Sections 4(1)(aaa) and 4(1-A) of TNP Act 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 derived a subjective satisfaction to the effect that the detenu is a habitual offender and ultimately, branded him as "Bootlegger" 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.

5. On the side of the respondents, a counter has been filed, wherein, it has been contended to the effect that most of the averments made in the petition are false. The Sponsoring Authority has submitted all the materials records to the Detaining Authority. The Detaining Authority, after perusing the relevant material records, has rightly derived a subjective satisfaction to the effect that the detenu is a habitual offender and ultimately, branded him as "Bootlegger" 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 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.

7. 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 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 is clearly stated that in respect of first representation, in between column Nos.7 and 9, 11 clear working days are available and in between column Nos.12 and 13, 1 clear working day is available. Likewise in respect of second representation, in between column Nos.7 and 9, 4 clear working days are available and in between column Nos.12 and 13, 1 clear working day is 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.

9. In fine, this petition is allowed. The Detention Order dated 28.04.2017 passed in C3/D.O/16/2017 by the Detaining Authority against the detenu by name, Radhakrishnan, aged 40 years, S/o.Renganathan, Pillaiyarkoil Street, Keezhpoovani Kuppam, Alapakkam Post, Kurinjipadi Taluk, Cuddalore District, 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 VIII)

/true copy/

Sub Asst. Registrar

gpa

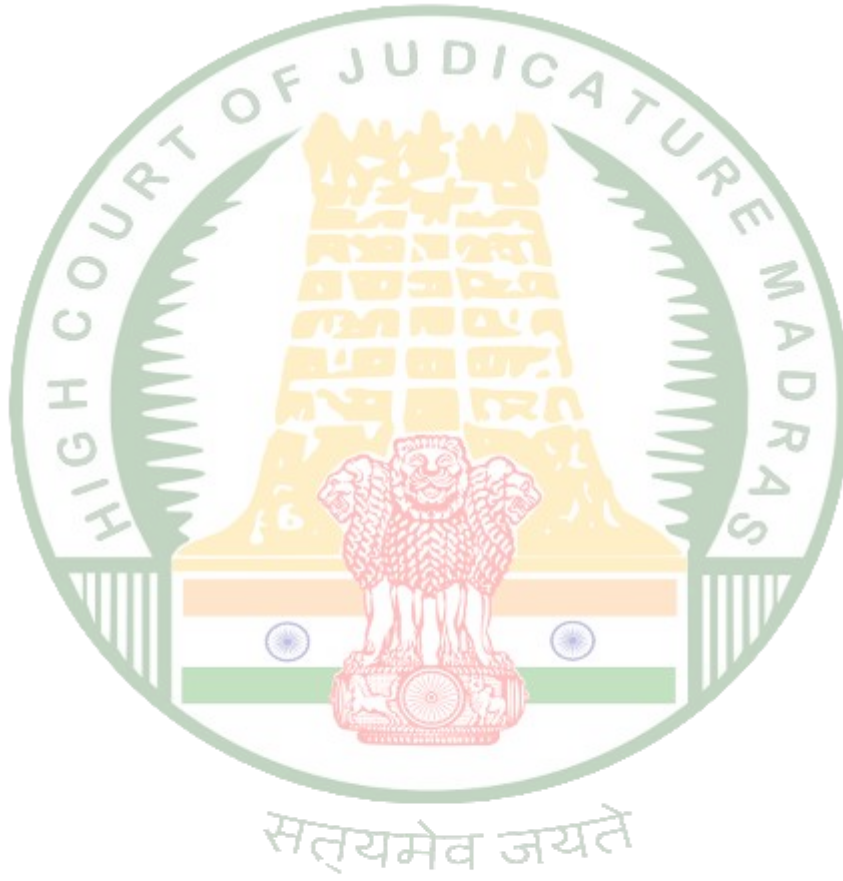
To

1. The Joint Secretary to Government of Tamil Nadu,
Public [Law and Order] Department,
Secretariat, Chennai-9.
2. The District Collector and District Magistrate
Cuddalore District
Cuddalore
3. The Secretary to the Government
of Tamil Nadu
Home, Prohibition and Excise Department
Fort St. George, Chennai -9
4. The Superintendent
Central Prison, Cuddalore(In duplicate)

5. The Public Prosecutor,
High Court, Madras.

H.C.P.No.895 of 2017

NR 31/08/2017



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