

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 21.08.2017

CORAM

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

H.C.P.No.898 of 2017

Arivazhagan

... Petitioner

Vs

1.The Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai-9.

2.The Commissioner of Police,
Greater Chennai,
O/o.The Commissioner of Police,
(Goondas Section)
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 in connection with the order of detention passed by the 2nd respondent in No.51/BCDFGISSSV/2017 dated 13.02.2017 against the petitioner/detenu Arivazhagan, aged 32 years, S/o.Manoharan, who is now confined in Central Prison, Puzhal, Chennai and set aside the same and produce him before this Hon'ble Court and set him at liberty.

For Petitioner : Mr.Philip Ravindran Jesudoss
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 No.51/BCDFGISSSV/2017

dated 13.02.2017 by the Detaining Authority against the detenu by name, Arivazhagan, aged 32 years, S/o.Manoharan, residing at No.229, VOC Nagar, Ennore, Chennai-57 and quash the same.

2. The Inspector of Police, M-5 Ennore 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. M-5 Ennore Police Station Crime No.718/2016 registered under Sections 457 and 380 of IPC.
- ii. M-5 Ennore Police Station Crime No.821/2016 registered under Section 380 of IPC.
- iii. M-5 Ennore Police Station Crime No.1122/2016 registered under Sections 457 and 380 of IPC.

3. Further, it is averred in the affidavit that on 24.12.2016, one Shankar, aged 33 years, S/o.Muthu, residing at No.31, Perumal Koil Street, Kattavoor, Ponneri Taluk, Thiruvallur District, as de facto complainant has given a complaint, wherein, it is alleged to the effect that in the place of occurrence, by showing a deadly weapon, the detenu has forcibly taken away a sum of Rs.1,800/- from the pocket of the de facto complainant and also snatched his watch. Further, the detenu has created panic in the minds of the general public and at such circumstances, a case has been registered in M-5 Ennore Police Station Crime No.2413/2016 registered under Sections 341, 294[b], 336, 427, 392 r/w 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 documents, has arrived to a subjective satisfaction that the detenu is a habitual offender and ultimately, branded him as goonda by 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. In the counter filed on the side of the respondents, it is averred 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 all the relevant materials, has arrived to a subjective satisfaction to the effect that the detenu is a habitual offender and ultimately, passed the impugned Detention Order and the same does not call for any interference and therefore, the present petition deserves to be dismissed.

6. Learned counsel appearing for the petitioner/detenu has contended to the effect that the detenu has been supplied with a booklet, wherein, from page Nos.18 to 100, unwanted documents

are annexed. The Detaining Authority has not applied his mind properly and therefore, the detention order in question is liable to be quashed.

7. Learned Additional Public Prosecutor has contended to the effect that the Sponsoring Authority has submitted all the relevant materials to the Detaining Authority. The Detaining Authority after making careful consideration, has rightly passed the impugned detention order and therefore, the contention urged on the side of the petitioner/detenu is liable to be rejected.

8. In fact, this Court has grouped the entire booklet. As rightly pointed out on the side of the petitioner from page Nos.18 to 100, some unwanted documents are found place and further, most of the vital documents are not legible. Therefore, it is quite clear that the Detaining Authority has not applied his mind properly before passing the impugned detention order. On that ground alone, the impugned detention order is liable to be quashed.

9. In fine, this petition is allowed. The Detention Order dated 13.02.2017 passed in No.51/BCDFGISSSV/2017 by the Detaining Authority against the detenu by name, Arivazhagan, aged 32 years, S/o.Manoharan, 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-II)

True Copy

Sub-Assistant Registrar

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To

- सत्यमेव जयते
- 1.The Joint Secretary to Government of Tamil Nadu,
Public [Law and Order] Department,
Secretariat, Chennai-9.
 - 2.The Secretary to Government of Tamil Nadu,
Home, Prohibition and Excise Department,
Secretariat, Chennai-9.
 - 3.The Commissioner of Police,
Greater Chennai,
O/o.The Commissioner of Police,
(Goondas Section)
Vepery, Chennai-7.

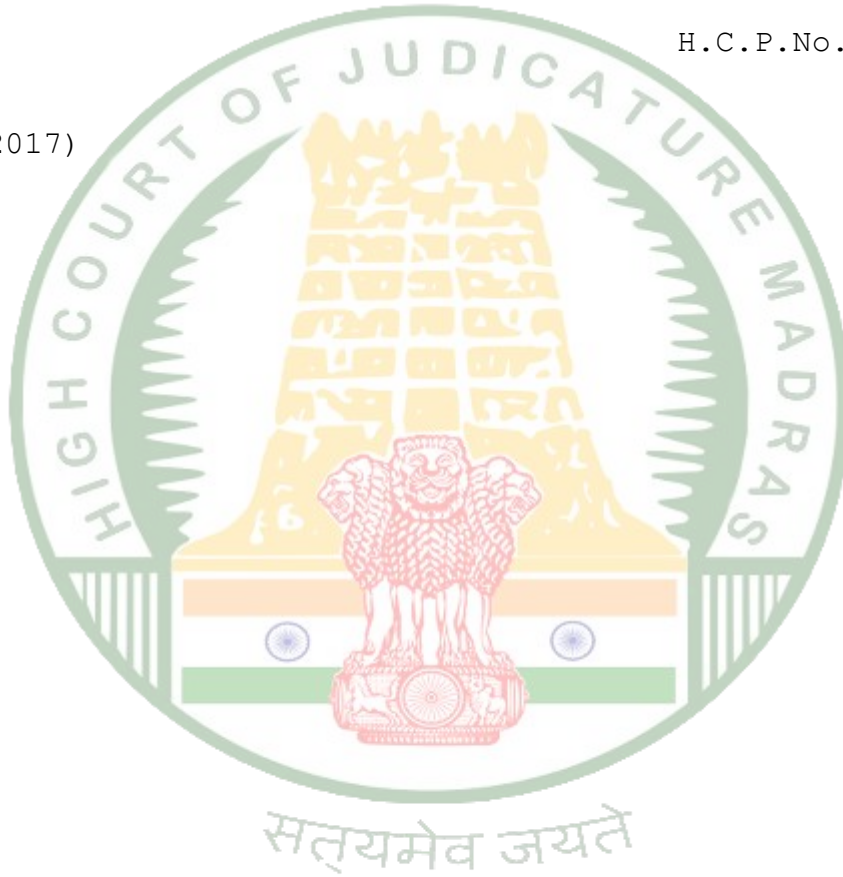
4.The Superintendent,
Central Prison, Puzhal, Chennai 66.
[in duplicate for communication to the detenu]

5.The Public Prosecutor,
High Court, Madras.

+1 CC to Mr.Philip Ravindran, Advocate sr 59741.

H.C.P.No.898 of 2017

MP (CO)
sp(21/08/2017)



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