

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 08.08.2017

CORAM

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

H.C.P.No.905 of 2017

V.Sumathi

.. Petitioner

Vs

1.The State of Tamil Nadu
Rep. By its Secretary to Government
Prohibition and Excise Department (Home)
Secretariat, Chennai - 600 009

2.The Commissioner of Police
Chennai City, Veppery, Chennai - 600 007 .. Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS, to call for the records of the 2nd respondent herein in Memo No.107/BCDFGISSSV/2017 dated 03.04.2017 and set aside the order of detention passed against detenu Vignesh @ Vigna @ Vigneshwaran, male aged about 22 years, S/o.Vincent, now detained in Central Prison-II, Puzhal, Chennai, quash the same, direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner : Mr.S.Senthilvel
for Mr.P.Sundarajan

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 BCDFGISSSV No.107/2017

dated 03.04.2017, against the detenu by name, Vignesh @ Vigna @ Vigneshwaran, aged 22 years, S/o.Vincent, No.13664, Kannaki Nagar, Chennai - 600 097 and quash the same.

2. The Inspector of Police, Kannagi Nagar Police Station, as Sponsoring Authority, has submitted an affidavit to the Detaining Authority, wherein, it is stated to the effect that the detenu has involved in the following adverse cases:

i) J-11 Kannaki Nagar Police Station, Crime No.2382 of 2015, registered under Section 379 of Indian Penal Code; and

ii) J-11 Kannaki Nagar Police Station, Crime No.1508 of 2016, registered under Section 399 of Indian Penal Code

3. Further, it is averred in the affidavit that on 30.10.2016, the Sub-Inspector of Police, attached to J-11, Kannagi Nagar Police Station, has received an information from General Hospital and immediately, she rushed to Government Hospital and examined one Manjula, w/o.Selvam, residing at No.16603, Kannagi Nagar, Chennai -97. The said defacto complainant has stated to the effect that in the place of occurrence, the present detenu and others have formed an unlawful assembly with deadly weapons and indiscriminately attacked one Kaliya @ Ranjith Kumar, who is none other than the son of the defacto complainant and further the present detenu and other have attacked others and due to their overt act, the said Kaliya @ Ranjith Kumar has passed away and consequently, a case has been registered in Crime No.1505 of 2016 under Sections 147, 148, 294(b), 324, 307 and 302 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 materials, 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. On the side of the respondents, a counter has been filed, wherein, it is 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 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 rightly branded him as "Goonda" by way of passing the impugned Detention Order and therefore, the present petition deserves to be dismissed.

6. The learned counsel appearing for the petitioner has contended to the effect that the detenu has been supplied with a booklet and most of the vital documents are not readable. Under the said circumstances, the detenu has not been able to submit a representation and the same would also affect his rights and therefore, the Detention Order in question is liable to be quashed.

7. The learned Additional Public Prosecutor has contended to the effect that all the documents available in the booklet are easily readable and therefore, the contention urged on the side of the petitioner is liable to be rejected.

8. On the side of the respondents, a booklet has been submitted wherein at Page Nos.247, 249 and 251, some of the vital documents are available. But, as rightly pointed out on the side of the petitioner, the same are not readable. Since the said documents are not readable, it is needless to say that the same has deterred the detenu from giving a representation and also affected his rights 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 03.04.2017 passed in BCDFGISSSV No.107/2017 by the second respondent against the detenu by name, Vignesh @ Vigna @ Vigneshwaran, aged 22 years, S/o.Vincent, No.13664, Kannaki Nagar, Chennai - 600 097 is quashed and directed to set him at liberty forthwith unless he is required to be incarcerated in any other case.

Sd/-

Assistant Registrar(CO)

//True Copy//

सत्यमेव जयते

Sub Assistant Registrar

gpa
To

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1.The Joint Secretary to Government of Tamil Nadu,
Public [Law and Order] Department,
Secretariat, Chennai-9

2.The Secretary to Government
Prohibition and Excise Department (Home)
Secretariat, Chennai - 600 009

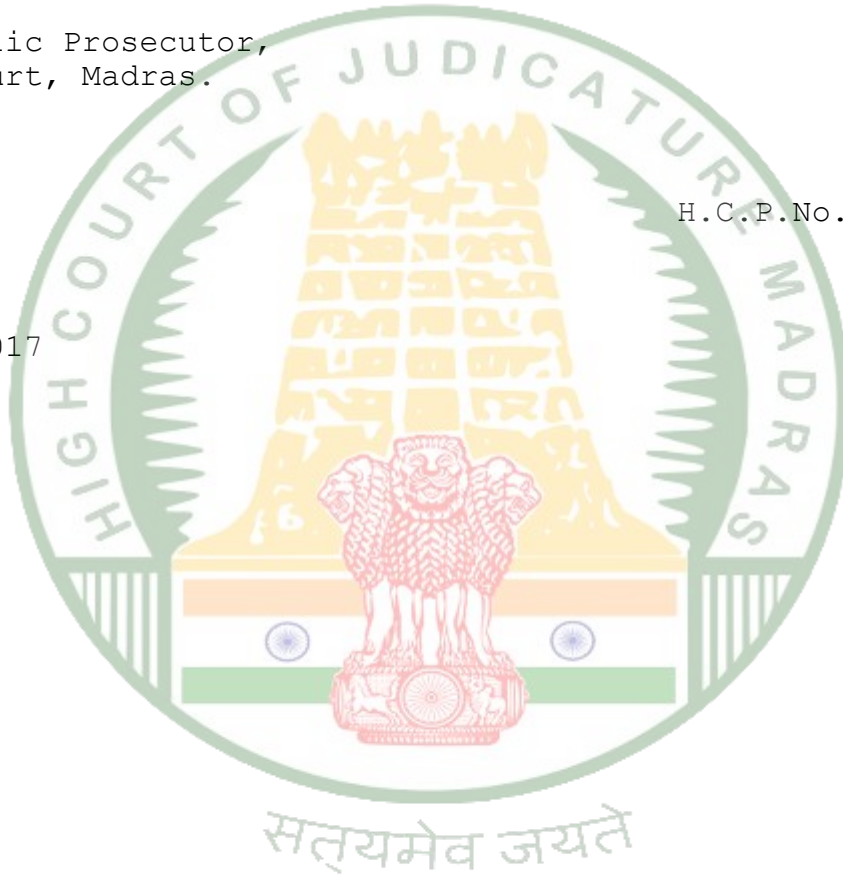
3.The Commissioner of Police
Chennai City, Veppery, Chennai - 600 007

4.The Superintendent
Central Prison, Puzhal
Chennai - 66 (In duplicate for communication to detenue)

5.The Public Prosecutor,
High Court, Madras.

H.C.P.No.905 of 2017

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