

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 13.09.2017

CORAM

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

H.C.P.No.909 of 2017

Jamila

.. Petitioner

Vs

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

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

.. 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 on 09.05.2017 in S.C.No.22/2017 against the petitioner's husband Dhavlath, aged 33 years, S/o.Maalik, who is confined at Central Prison, Salem and set aside the same and direct the respondents to produce the detenu before this Hon'ble Court and set him at liberty.

For Petitioner : Mr.S.Senthil Vel

For Respondents : Mr.V.M.R.Rajentren,
Additional Public Prosecutor

ORDER

[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 S.C.No.22/2017 dated 09.05.2017 by the Detaining Authority against the detenu by name, Dhavalth, aged 33 years, S/o.Maalik, residing at Reddy Thoppu Village, Aasanapattu Post, Ambur Taluk, Vellore District and quash the same.

2. The Inspector of Police, Prohibition Enforcement Wing, Krishnagiri as Sponsoring Authority has submitted an affidavit to the Detaining Authority, wherein, it is averred to the effect that on 07.04.2017 at about 09.00 a.m., on the basis of information, the Sub Inspector of Police attached to Prohibition Enforcement Wing, Krishnagiri and other police officials, in the place of occurrence, have intercepted a vehicle bearing registration number TN73 8172 and ultimately, found that the present detenu and others have smuggled spirit and due to that, a case has been registered in Crime

No.384/2017 under Sections 4[1][aaa] r/w 4[1-A] of Tamil Nadu Prohibition Act, 1937 and also under Sections 468, 471 and 420 of the Indian Penal Code and ultimately, requested the Detaining Authority to invoke Act 14 of 1982 against the detenu.

3. The Detaining Authority after perusing all the averments made in the affidavit and other connected documents, has derived to 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.

4. On the side of the respondents, counter has been filed, wherein, it is clearly stated to the effect that most of the averments made in the petition are false. The Sponsoring Authority has supplied all the material records to the Detaining Authority. The Detaining Authority after perusing all the materials, has derived 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.

5. 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 are not disposed of without delay and therefore, the Detention Order in question is liable to be quashed.

6. Learned Additional Public Prosecutor has contended to the effect that the representations submitted on the side of the petitioner have been duly disposed of without delay and therefore, the contention put forth on the side of the petitioner is liable to be rejected.

7. On the side of the respondents, a proforma has been submitted, wherein, it is clearly stated that in respect of 1st representation, in between column Nos.7 to 9, 26 clear working days are available and in between column Nos.12 and 13, 17 clear working days are available. Likewise, in respect of 2nd representation, in between column Nos.7 to 9, 19 clear working days are available and no explanation has been given on the side of the respondents for such huge 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.

8. In fine, this petition is allowed. The Detention Order dated 09.05.2017 passed in S.C.No.22/2017 by the Detaining Authority against the detenu by name, Dhavlath, aged 33 years, S/o.Maalik, is quashed and directed to set him at liberty forthwith, unless he is required to be incarcerated in any other case.

[A.S., J.]

[P.K., J.]

13.09.2017

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To

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

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

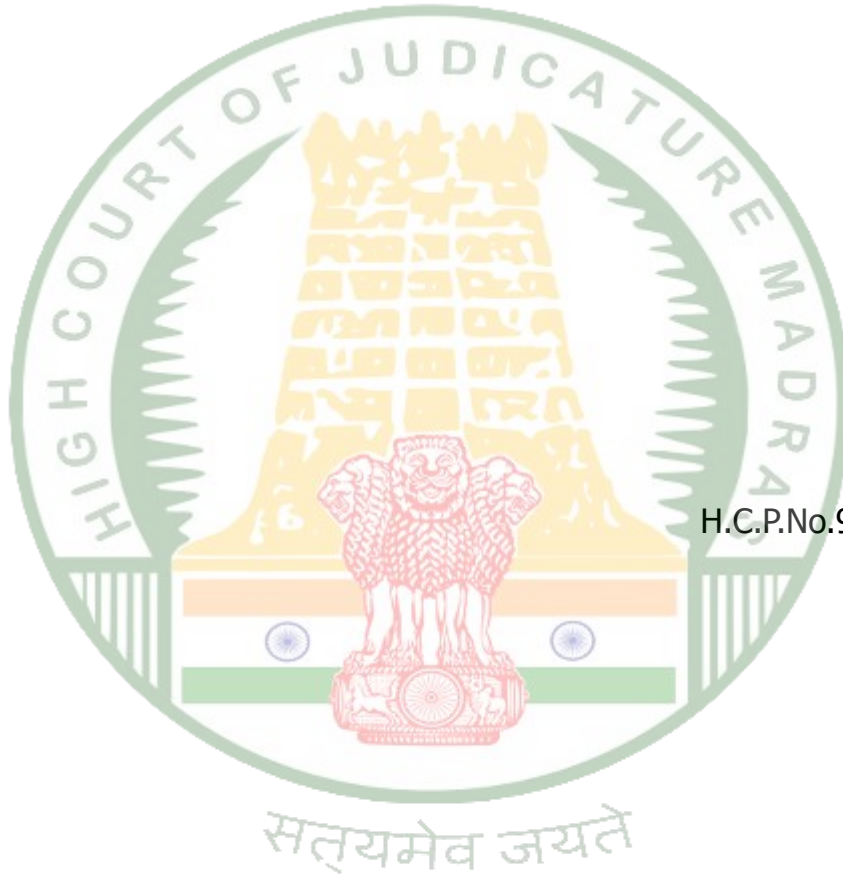
3.The District Collector and the District Magistrate,
Krishnagiri District,
Krishnagiri.

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

5.The Public Prosecutor,
High Court, Madras.

A.SELVAM, J.
and
P.KALAIYARASAN, J.

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H.C.P.No.909 of 2017

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