

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.938 of 2017

Gnanavalli

... Petitioner

Vs

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

2.The Commissioner of Police,
Greater Chennai Police.

... 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 dated 08.05.2017 in No.240/BCDFGISSSV/2017 against the petitioner's husband Minnal, aged 35 years, S/o.Jayaram, who is confined at Central Prison, Puzhal-II, Chennai and set aside the same and direct the respondents to produce the detenu before the Hon'ble Court and set him at liberty.

सत्यमेव जयते

For Petitioner : Mr.S.Senthil Vel

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.240/BCDFGISSSV/2017 dated 08.05.2017 by the Detaining Authority against the detenu by name, Minnal, aged 35 years, S/o.Jayaram, residing at No.17/2, Ambedkar Street, Periyar Nagar, Korattur, Chennai-80 and quash the same.

2. The Inspector of Police, T-2 Ambattur Estate 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. T-1 Ambattur Police Station Crime No.648/2017 registered under Sections 457 and 380 of the Indian Penal Code.
- ii. T-2 Ambattur Estate Police Station Crime No.368/2017 registered under Sections 461 and 380 of the Indian Penal Code.
- iii. T-2 Ambattur Estate Police Station Crime No.617/2017 registered under Sections 392 of the Indian Penal Code.

3. Further, it is averred in the affidavit that on 05.04.2017, one Raja, aged 24 years, S/o.Ramasamy, residing at No.235, Pillaiyar Koil Street, Mannurpet, Chennai-50, 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.1,050/- from the custody of the de facto complainant and also threatened him by using filthy words and at such circumstances, a case has been registered in Crime No.622/2017 under Sections 341, 294[b], 336, 427, 392, 397 and 506[iii] of the 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 arrived to a subjective satisfaction 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 wife of the detenu 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 considering 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 suffer from any infirmity 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 petitioner, a representation has been given to the concerned authorities. But, the same has 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 representation submitted by the petitioner has been 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 has been clearly stated that in between column Nos.7 to 9, 4 clear working days are 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 08.05.2017 passed in No.240/BCDFGISSSV/2017 by the Detaining Authority against the detenu by name, Minnal, aged 35 years, S/o.Jayaram, 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 VI)

True Copy

Sub-Assistant Registrar

gya
To

- 1.The Secretary to the Government,
Government of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St. George, Chennai-9.
- 2.The Commissioner of Police,
Greater Chennai Police.
- 3.The Superintendent,
Central Prison, Puzhal, Chennai.
[in duplicate for communication to the detenu]
- 4.The Joint Secretary to Government of Tamil Nadu,
Public [Law and Order] Department,
Secretariat, Chennai-9.
- 5.The Public Prosecutor,
High Court, Madras.

H.C.P.No.938 of 2017

SP(23/08/2017)