

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 07.09.2017

CORAM

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

H.C.P.No.948 of 2017

1.Thirupathi .. Petitioner/Detenu

Vs

1.The State of Tamil Nadu
Rep. By the Secretary,
Home, Prohibition & Excise Dept.
Secretariat, St.George Fort
Madras - 9

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

.. Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS, directing the respondents to call for the records in S.C.No.27 of 2017 dated 15.05.2017 passed by the second respondent, approved and confirmed by the first respondent, set aside the same and direct the respondents to produce the body of this petitioner, viz., Thirupathi, aged 29 years, Son of Murugesan, who has been detained and confined in the Central Prison at Salem in T.P.D.A No.4957 before this Court and set him at liberty.

For Petitioner : Mr.T.R.Radhakrishnan

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 S.C.No.27 of 2017 dated 15.05.2017 by the Detaining Authority against the detenu by name, Thirupathi, aged 29 years, S/o.Murugesan, D.No.1/47, Mayiladumparai Village, Karappattu Post, Uthangarai Taluk,

Krishnagiri District and quash the same.

2. The Inspector of Police, Maharajakadai 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) Singarapettai Police Station, Crime No.376 of 2016, registered under Section 394 of Indian Penal Code;
- ii) Mallur Police Station, Crime No.39 of 2017, registered under Sections 457 and 380 of Indian Penal Code;
- iii) Mallur Police Station, Crime No.44 of 2017, registered under Sections 457 and 380 of Indian Penal Code;
- iv) Maharajakadai Police Station, Crime No.54 of 2017, registered under Sections 454 and 380 of Indian Penal Code; and
- v) Kallavi Police Station, Crime No.20 of 2017, registered under Section 392 of Indian Penal Code.

3. Further it is averred in the affidavit that on 29.03.2017 at about 15.00 hours, one Saravanan, Son of Sengodan, residing at Dharumaraja Nagar, Bethameluppalli Post, Krishnagiri Taluk and District, as a defacto complainant, has given a complaint in Maharajakadai Police Station wherein it is alleged to the effect that in the place of occurrence by showing a knife, the detenu has forcibly taken away a sum of Rs.1210/- and a cellphone from the custody of the defacto complainant and due to that a case has been registered in Crime No.113 of 2017, under Sections 294 (b), 302 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 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 detenu himself, as petitioner.

5. On the side of the respondents, counter has not been filed and therefore, the present Habeas Corpus Petition is disposed of on merits on the basis of available materials on record.

6. Learned counsel appearing for the petitioner has contended to the effect that totally three representations are submitted to the concerned authorities, 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 all the representations submitted on the side of the detenu are duly disposed of without delay and therefore, the contention put forth on the side of the detenu 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, 41 clear working days are available and in between column Nos.12 and 13, 4 clear working days are available. Likewise in respect of second representation, in between column Nos.7 and 9, 36 clear working days are available and in between column Nos.12 and 13, 4 clear working days are available and further, the third representation has not at all been disposed of. Considering the above said factual circumstances, this Court is of the view that the detention order in question is liable to be quashed.

9. In fine, this petition is allowed. The Detention Order dated 15.05.2017 passed in S.C.No.27 of 2017 by the Detaining Authority against the detenu by name, Thirupathi, aged 29 years, S/o.Murugesan, 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 II)

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

3.The District Collector and District Magistrate
of Krishnagiri District, at Krishnagiri

4.The Superintendent
Central Prison, Salem

5.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.T.R.Radhakrishnan,Advocate sr.64800

H.C.P.No.948 of 2017

ca(co)
ss(11/9/2017)



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