

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.949 of 2017

Sudhakar

.. Petitioner

Vs

1.The State of Tamil Nadu

Rep. By the Secretary to Government
Home, Prohibition and 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.25 of 2017 dated 11.05.2017 passed by the first respondent, approved and confirmed by the second respondent, set aside the same and direct the respondents to produce the body of this petitioner, viz., Sudhakar, aged 30 years, S/o.Nataraj, who has been detained and confined in the Central Prison at Salem in T.P.D.A No.4954 before this Court and set him at liberty.

For Petitioner : Mr.T.R.Radhakrishnan

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

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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.25 of 2017 dated 11.05.2017 by the Detaining Authority against the detenu by name, Sudhakar, aged 30 years, S/o.Nataraj, Kottangallur

Perumal Kovil Adivaram, Perampattu Post, Thiruppathur Taluk, Vellore District and quash the same.

2. The Inspector of Police, Gurubarappalli Circle 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) Kallavi Police Station, Crime No.22 of 2017, registered under Sections 454, 457 and 380 of Indian Penal Code;
- ii) Uthangarai Police Station, Crime No.75 of 2017, registered under Sections 454 and 380 of Indian Penal Code;
- iii) Uthangarai Police Station, Crime No.93 of 2017, registered under Sections 454 and 380 of Indian Penal Code;
- iv) Veppanappalli Police Station, Crime No.108 of 2017, registered under Section 392 of Indian Penal Code;
- v) Krishnagiri Town Police Station, Crime No.219 of 2017, registered under Section 380 of Indian Penal Code;
- vi) Krishnagiri Town Police Station, Crime No.224 of 2017, registered under Section 392 of Indian Penal Code;
- vii) Krishnagiri Town Police Station, Crime No.225 of 2017, registered under Section 380 of Indian Penal Code;

3. Further it is averred in the affidavit that on 05.04.2017 at about 07.30 hours, one Selvaraj, Son of Rajappa Gounder, residing at Kollappalli Village, Beemandappalli Post, Krishnagiri District, as a defacto complainant, has given a complaint wherein it is averred to the effect that on 05.04.2017 at about 06.00 am, the detenu by showing a knife has forcibly taken away a sum of Rs.1400/- from the custody of the defacto complainant and also threatened him. Under the said circumstances, a case has been registered in Crime No.115 of 2017, under Section 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 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, but the same have not been disposed of without delay and therefore, the Detention Order in question is liable to be quashed.

7. Per contra, the 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, 43 clear working days are available and in between column Nos.12 and 13, 2 clear working days are available. Likewise in respect of second representation, in between column Nos.7 and 9, 37 clear working days are available and in between column Nos.12 and 13, 2 clear working days are available and no explanation has been given on the side of the respondents with regard to such delay. Further, the third representation alleged to have been submitted by the petitioner has not at all been disposed of. Therefore, the detention order in question is liable to be quashed.

9. In fine, this petition is allowed. The Detention Order dated 11.05.2017 passed in S.C.No.25 of 2017 by the Detaining Authority against the detenu by name, Sudhakar, aged 30 years, S/o.Nataraj, 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/

सत्यमेव जयते
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

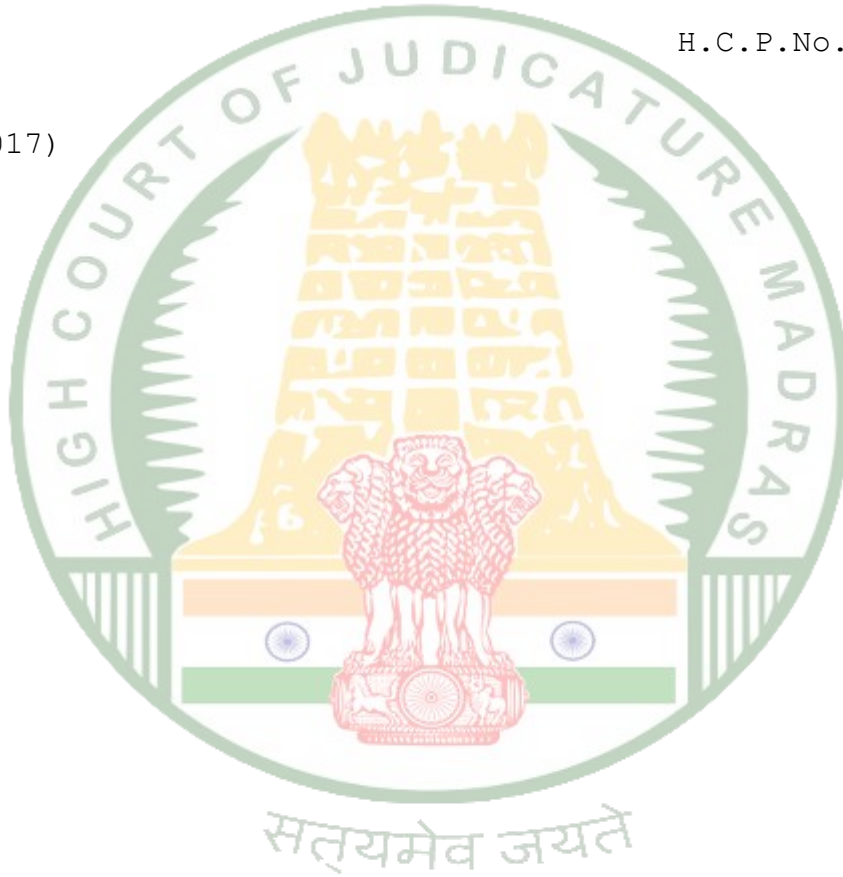
4.The Superintendent
Central Prison, Salem

5.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.T.R.Radhakrishnan,Advocate sr.64799

H.C.P.No.949 of 2017

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



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