

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 06.07.2017

CORAM

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

H.C.P.No.2304 of 2016

Lakkan Sowpaul

.. Petitioner/Detenu

Vs

1.Government of Tamil Nadu
Rep. by its Secretary,
Home Prohibition and Excise [XVI] Department,
Fort St. George, Chennai-9.

2.The Commissioner of Police,
Greater Chennai,
Chennai City Police,
Vepery, Chennai.

... 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 the detention order vide BCDFGISSSV No.1074/2016 dated 26.09.2016 on the file of the 2nd respondent and quash the same and direct the respondents herein to produce the body of Lakkan Sowpaul, aged 30 years, S/o.Dunnai Chowpar, the detenu now confined in Central Prison-II, Puzhal, Chennai before this Hon'ble Court and set him at liberty.

For Petitioner : Mr.Jugal Kumar

For Respondents : Mr.V.M.R.Rajentran,
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 dated 26.09.2016 passed in BCDFGISSSV No.1074/2016 by the Detaining Authority against the detenu by name, Lakkan Sowpaul, S/o.Dunnai Chowpar and quash the same.

2. The Inspector of Police, R-2 Kodambakkam Police Station as Sponsoring Authority has submitted an affidavit to the Detaining Authority, wherein, it is averred that the detenu has involved in the following adverse cases :

- i. R-2 Kodambakkam Police Station Crime No.60/2016 registered under Sections 457 and 380 of Indian Penal Code.
- ii. R-2 Kodambakkam Police Station Crime No.171/2016 registered under Section 379 of Indian Penal Code.
- iii. R-2 Kodambakkam Police Station Crime No.426/2016 registered under Section 380 of Indian Penal Code.

3. Further, it is averred that on 26.06.2016, one Kandan, S/o.Veeraraghavan, as de facto complainant has lodged a complaint against the detenu in R-2 Kodambakkam Police Station and the same has been registered in Crime No.479/2016 under Sections 341, 336, 427, 392, 397 and 506[iii] 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 arrived to a subjective satisfaction to the effect that the detenu has committed the crime mentioned in the affidavit 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 been filed, wherein, it is averred to the effect that the Sponsoring Authority has submitted all relevant materials to the Detaining Authority. The Detaining Authority after considering all the relevant materials, has arrived to a subjective satisfaction and ultimately, passed the impugned Detention Order and the same is not liable to be quashed and therefore, the present petition deserves to be dismissed.

6. The learned counsel appearing for the petitioner/detenu has contended to the effect that the detenu belongs to the State of Bihar and he does not know both English and Tamil. But, all documents supplied to him are only in Tamil and translated copies in Hindi have not been furnished and the same would affect the rights of the petitioner/detenu and in such circumstances, the Detention Order in question is liable to be quashed.

7. The learned Additional Public Prosecutor has also equally contended to the effect that even though all documents are in Tamil, the same have been properly translated in Hindi and to that effect, necessary endorsements have been made in all

documents and nothing would affect the rights of the detenu and therefore, the Detention Order in question does not call for any interference.

8. It is an admitted fact that the petitioner belong to the State of Bihar. It is also equally an admitted fact that all documents furnished to him are only in Tamil. It is true that an endorsement has been made to the effect that all documents have been translated in Hindi and that itself would not be sufficient to come to a conclusion that the petitioner/detenu has understood the contents of all documents. Since, all the documents relied upon have not been translated in Hindi, this Court is of the view that 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 dismissed.

9. In fine, this Habeas Corpus Petition is allowed. The Detention Order dated 26.09.2016 passed in BCDFGISSSV No.1074/2016 by the Detaining Authority against the detenu by name, Lakkan Sowpaul, S/o.Dunnai Chowpar 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 VIII)

/true copy/

Sub Asst. Registrar

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To

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

2.The Commissioner of Police,
Greater Chennai,
Chennai City Police,
Vepery, Chennai.

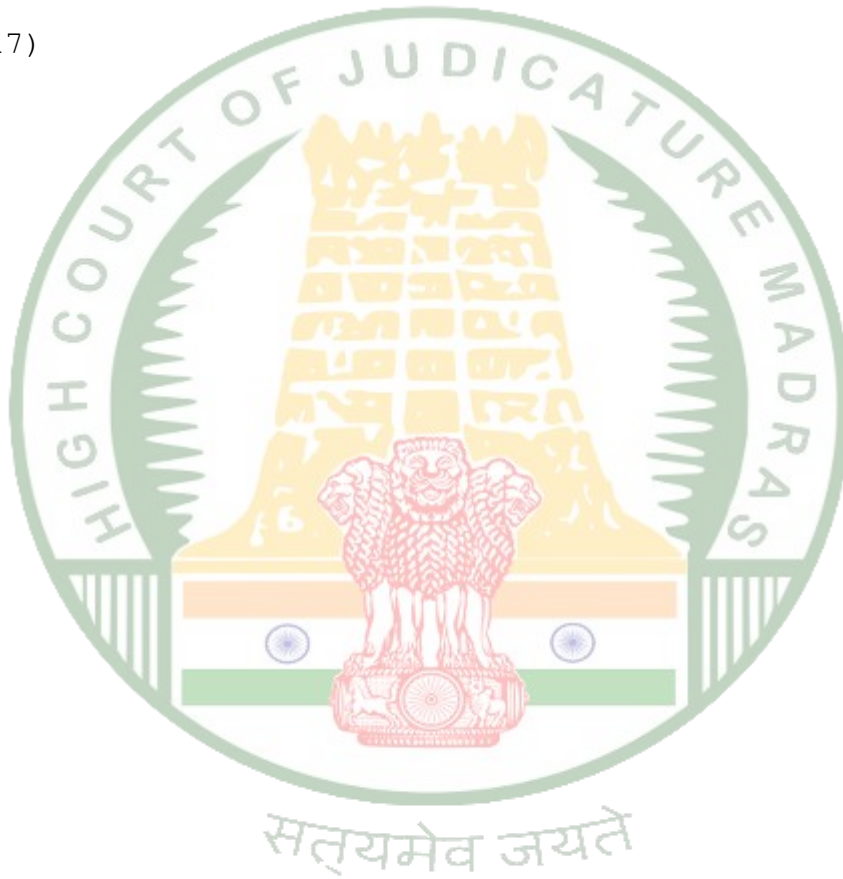
3.The Superintendent,
Central Prison,
Puzhal II, Chennai (In duplicate for Communication
to the detenue)

4.The Joint Secretary,
Public (Law & Order)
Fort St.George, Chennai-9

5.The Public Prosecutor,
High Court, Madras.

H.C.P.No.2304 of 2016

gj (co)
ss (6/7/2017)



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