

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 19.07.2017

CORAM

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

H.C.P.No.2369 of 2016

M.Meenachi .. Petitioner/Sister of the
Vs Detenue

1.State of Tamil Nadu rep.
by Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George, Chennai-9.

2.The District Magistrate and
District Collector,
Dharmapuri. ... Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS, to call for the records relating to the detention order passed by the 2nd respondent pertaining to the order made in S.C.No.34/2016 dated 17.10.2016 in detaining the detenu under 2[F] of Tamil Nadu Act 14 of 1982, as a goonda and quash the same and direct the respondents to produce the detenu Vijayakumar @ Vijay, aged 23 years, S/o.Seenivasan, who is detained at Central Prison, Salem before this Hon'ble Court and set him at liberty.

For Petitioner : Mr.O.S.Thilak Pasumbadiyar
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.34/2016 dated 17.10.2016 by the Detaining Authority against the detenu by

name, Vijayakumar @ Vijay, aged 23 years, S/o.Seenivasan, residing at No.45, Gandhi Nagar, 8th Street, Thiruverumbur, Trichy District and quash the same.

2. The Inspector of Police, Harur 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. Harur Police Station Crime No.546/2015 registered under Section 379 of Indian Penal Code.
- ii. Palacode Police Station Crime No.114/2016 registered under Section 379 of Indian Penal Code.
- iii. Harur Police Station Crime No.461/2016 registered under Sections 392 @ 395 of Indian Penal Code.
- iv. Pennagaram Police Station Crime No.255/2016 registered under Sections 393 @ 395 of Indian Penal Code.

3. Further, it is averred in the affidavit that on 24.07.2016, one Veerasamy, S/o.Chinnasamy, residing at Velampatti Village, Veppampatti Post, Harur Taluk, has given a complaint to the Sub Inspector of Police, Harur Police Station, wherein, it is averred that on the same day at about 2.45 p.m. he has withdrawn Rs.10,000/- from Federal Bank at Thiru.Vi.Ka.Nagar in Harur-Salem bye-pass road and place the same in a yellow colour bag. After sometime, two persons who have crossed him told that some currency notes have fallen from his bag and all of a sudden, they have shown deadly weapons and forcibly taken Rs.10,000/-. On the basis of averments made in the complaint, a case has been registered in Crime No.479/2016 under Section 392 of Indian Penal Code against the detenu and others 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 at 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 sister of the detenu as petitioner has filed the present petition.

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 supplied all the materials to the Detaining Authority. The Detaining Authority after perusing all the materials, has arrived at 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.

6. Learned counsel appearing for the petitioner has contended that on the side of the detenu, two representations have been 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 both the representations submitted on the side of the detenu are duly 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 respect of first representation, in between column Nos.7 and 9, 18 clear working days are available and in between column Nos.12 and 13, 18 clear working days are available. Likewise, in respect of second representation, in between column Nos.7 and 9, 8 clear working days are available and in between column Nos.12 and 13, 13 clear working days are available and no explanation has been given on the side of the respondents with regard to such a 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.

9. In fine, this petition is allowed. The Detention Order dated 17.10.2016 passed in S.C.No.34/2016 by the Detaining Authority against the detenu by name, Vijayakumar @ Vijay, aged 23 years, S/o.Seenivasan, residing at residing at No.45, Gandhi Nagar, 8th Street, Thiruverumbur, Trichy District, is quashed and directed to set him at liberty forthwith, unless he is required to be incarcerated in any other case.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

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

2.The District Magistrate and
District Collector,
Dharmapuri.

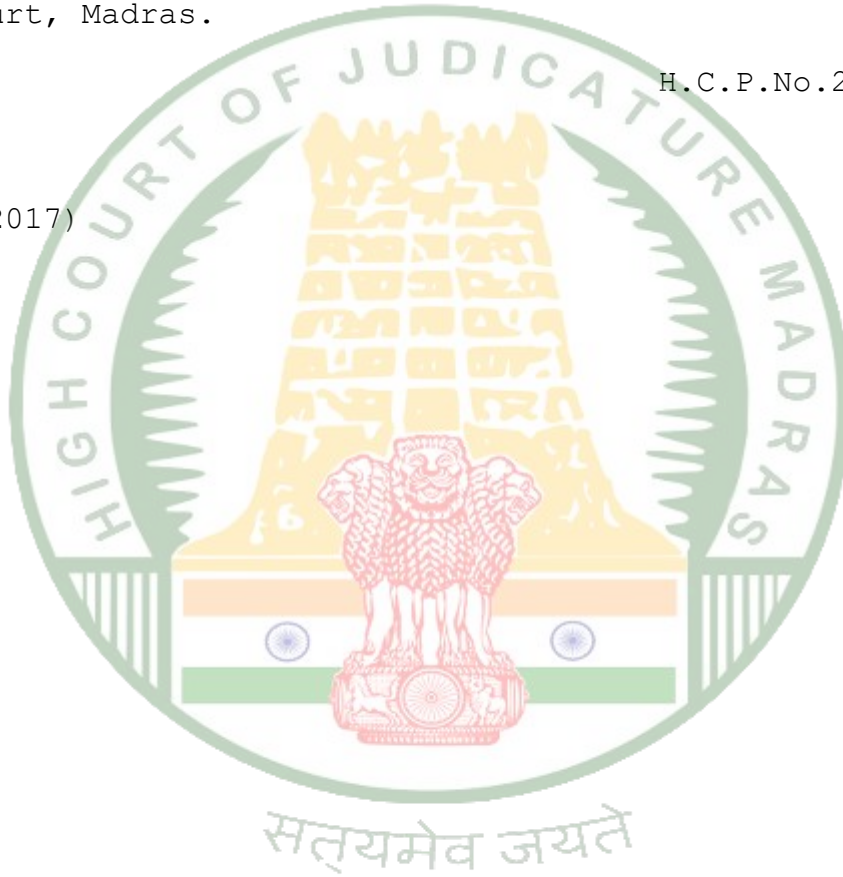
3.The Joint Secretary,
Public (Law & Order),
Fort.St.George, Chennai-104.

4.The Superintendent,
Central Prison, Salem.

5.The Public Prosecutor,
High Court, Madras.

H.C.P.No.2369 of 2016

PVS (CO)
GN(19/07/2017)



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