

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 21.07.2017

CORAM

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

H.C.P.No.2377 of 2016

D.Jayapriya

.. Petitioner

Vs

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

2.The District Magistrate and District Collector,
Salem District,
Salem.

.. Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS, to call for the records pertaining to the order of detention dated 13.10.2016 passed by the 2nd respondent in C.M.P.No.36/Goonda/C2/2016, quash the same and produce the detenu, Dinesh, aged 25 years, S/o.Nehruji, before this Hon'ble Court and set him at liberty and the detenu now confined in Central Prison, Salem.

For Petitioner : Mr.D.Mario Johnson

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 C.M.P.No.36/Goonda/C2/2016 dated 13.10.2016 by the Detaining Authority against the detenu by name, Dinesh, aged 25 years, S/o.Nehruji, residing at Adidravidar Street, Chinnagoundapuram, Ramalingapuram Post, Karippatty Police Station Limits, Valadappady Taluk, Salem and quash the same.

2. The Inspector of Police, Karippatty 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. Karippatty Police Station Crime No.282/2015 registered under Sections 294[b], 323 and 506[ii] of Indian Penal Code.
- ii. Karippatty Police Station Crime No.241/2016 registered under Section 392 of Indian Penal Code.

3. Further, it is averred in the affidavit that on 09.08.2016, one Ponnusamy, S/o.Meyyan, Ram Nagar, Ayothiyapattanam, as de facto complainant has given a complaint in Karippatty Police Station, wherein, it is stated that in the place of occurrence, the detenu had shown deadly weapon and snatched a sum of Rs.300/- from the de facto complainant and consequently, a case has been registered in Crime No.274/2016 under Section 392 r/w 397 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 at a subjective satisfaction that the detenu is a habitual offender and ultimately, branded him as goonda by passing the impugned Detention Order and in order to quash the same, the wife of the detenu has filed the present petition as petitioner.

5. In the counter filed on the side of the respondents, it is averred to the effect 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 considering all the materials, has arrived at a subjective satisfaction to the effect that the detenu is a habitual offender and rightly branded him as goonda by way of passing 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 to the effect that on the side of the petitioner 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 the representations submitted on the side of the petitioner 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 both the representations, in between column Nos.7 and 9, 15 clear working days are available. Likewise, in between column Nos.12 and 13, 7 clear working days are available and no explanation has been given on the side of the respondents and that would itself 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 13.10.2016 passed in C.M.P.No.36/Goonda/C2/2016 by the Detaining Authority against the detenu by name, Dinesh, aged 25 years, S/o.Nehruji, is quashed and directed to set him at liberty forthwith, unless he is required to be incarcerated in any other case.

Sd/-

Assistant Registrar(CO)

//True Copy//

सत्यमेव जयते

Sub Assistant Registrar

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To

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

2.The District Magistrate and District Collector,
Salem District,
Salem.

3.The Superintendent Central Prison
Salem

(In duplicate for communication for detenue)

4.The Joint Secretary to Government
Public Law and Order Fort St.George
Chennai-9

5.The Public Prosecutor,
High Court, Madras.

H.C.P.No.2377 of 2016

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