

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 04.07.2017

CORAM

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

H.C.P.No.2388 of 2016

T.Dhivya

.. Petitioner

Vs

1.The State rep.
By its Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George, Chennai-9.

2.The District Collector and Judicial Magistrate,
Cuddalore,
Cuddalore District.

... Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS, to call for the records leading to the detention of the petitioner's husband namely S.Tamilarasan, S/o.Selvaraj, aged 24 years under Act 14/1982 vide detention order 4.10.2016 on the file of the 2nd respondent made in proceedings in C3/DO/25/2016, quash the same, consequently direct the respondents herein to produce the body and person of S.Tamilarasan, S/o.Selvaraj who is lodged at Central Prison, Cuddalore, before this Hon'ble Court and set him at liberty.

For Petitioner : Mr.C.D.Sugumar

For Respondents : Mr.E.Raja,

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 the records relating to the detention order dated 04.10.2016 passed in C3/DO/25/2016 against the detinue by name, S.Tamilarasan, S/o.Selvaraj by the second respondent herein and quash the same.

2. The Inspector of Police, Vridhachalam Police Station as Sponsoring Authority has submitted an affidavit to the Detaining Authority, wherein, it is averred that the detenue has involved in the case registered in Crime No.577/2013, Vridhachalam Police Station under Sections 294[b], 324 and 506[i] of Indian Penal Code.

3. Further, it is averred in the affidavit that on 05.09.2016, one Krishnakumar, S/o.Venkatesan, a resident of Pudupettai village, Vridhachalam as de facto complainant has given a complaint against the detenue and others and the same has been registered in Crime No.724/2016 under Sections 294[b], 323, 341, 506[ii], 307 and 302 of Indian Penal Code and ultimately, requested the Detaining Authority to invoke Act 14 of 1982 against the detenue.

4. The Detaining Authority, after considering all the averments made in the affidavit and other connected documents, has derived a subjective satisfaction to the effect and ultimately, passed the Detention Order in question and thereby, branded the detenue as goonda and in order to quash the Detention Order, the present petition has been filed by the wife of the detenue as petitioner.

5. On the side of the respondents, counter has been filed, wherein, it is averred to the effect that most of the averments made in the petition are false and the Detaining Authority, after considering the available materials on record, has rightly passed the Detention Order and therefore, the Detention Order in question does not call for any interference and altogether the present petition deserves to be dismissed.

6. Learned counsel appearing for the petitioner has contended to the effect that before passing the Detention Order in question, the Revenue Divisional Officer has issued warrant of commitment against the detenue and the same has not been mentioned in the Detention Order. Further, a representation has been given on 15.10.2016 and the same has not been disposed of without delay.

7. Per contra, the learned Additional Public Prosecutor has contended that the Detaining Authority, after considering all the materials placed before him, has rightly passed the Detention Order and further, the representation dated 15.10.2016 has been disposed of without delay and therefore, the contentions raised on the side of the petitioner cannot be accepted.

8. It is seen from the records that before passing the Detention Order in question, the concerned Revenue Divisional Officer has issued warrant of commitment against the detainee. As rightly pointed out by the learned counsel appearing for the petitioner, the order passed by the Revenue Divisional Officer has not at all been considered by the Detaining Authority and further, it is seen from the records that on 15.10.2016, a representation has been given.

9. On the side of the respondents, the proforma has been submitted, wherein, it has been clearly stated that in between column Nos.7 and 9, seven clear working days are available and in between column Nos.12 and 13, thirty eight clear working days are available and no explanation has been given on the side of the respondents, with regard to such delay and that itself would be sufficient for coming to a conclusion that the representation given by the petitioner has not been considered without delay. Therefore, the Detention Order in question is liable to be quashed.

10. In fine, this Habeas Corpus Petition is allowed. The Detention Order passed in C3/DO/25/2016 dated 04.10.2016 by the second respondent herein against the detainee, viz, S.Tamilarasan, S/o.Selvaraj is quashed and the detainee is set at liberty forthwith unless he is required to be incarcerated in any other case.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

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

2.The District Collector and Judicial Magistrate,
Cuddalore,
Cuddalore District.

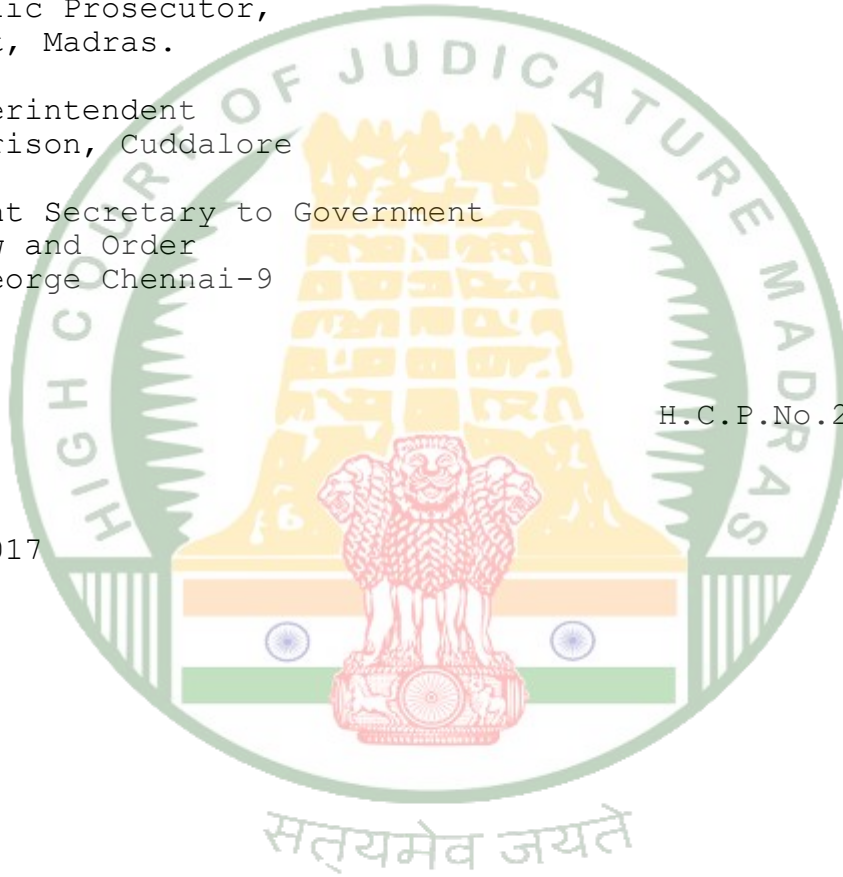
3.The Public Prosecutor,
High Court, Madras.

4.The Superintendent
Central Prison, Cuddalore

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

H.C.P.No.2388 of 2016

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