

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.2451 of 2016

Lakshmi

.. Petitioner

Vs

1.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai-9.

2.The Commissioner of 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 connection with the order of detention passed by the 2nd respondent in No.1015/BCDFGISSSV/2016 dated 02.09.2016 against detenu namely Raji, aged 23 years, S/o.Heerabakdhur, who is now confined at Central Prison, Puzhal, Chennai and set aside the same and direct the respondents to produce the detenu before this Hon'ble Court and set him at liberty.

For Petitioner : Mr.M.Mohana Sundaram

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 No.1015/BCDFGISSSV/2016 dated 02.09.2016 by the Detaining

Authority against the detenu by name, Raji, aged 23 years, S/o.Heerabakdhur, residing at No.309, 7th Unit, Madhavaram Milk Colony Quarters, Chennai-51 and quash the same.

2. The Inspector of Police, M-6 Manali Police Station as Sponsoring Authority has submitted an affidavit to the Detaining Authority, wherein, it is averred to the effect that on 09.07.2016, one Bhundaram, S/o.Duragaram, as a de facto complainant has given a complaint in Manali Police Station, wherein, it is alleged that in the place of occurrence, the detenu and others have formed unlawful assembly and attacked one Thiru Mullai Gnanasekar indiscriminately and due to their overt acts, he passed away. On the basis of allegations made in the complaint, a case has been registered in Crime No.728/2016 under Sections 147, 148, 448 and 302 of Indian Penal Code and ultimately, requested the Detaining Authority to invoke Act 14 of 1982 against the detenu.

3. The Detaining Authority after considering the averments made in the affidavit and other connected documents, has arrived at a subjective satisfaction to the effect that the detenu has committed a grave offence and ultimately, branded him as goonda by way of passing the impugned Detention Order and in order to quash the same, the mother of the detenu has filed the present petition as petitioner.

4. 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 and the gravity of offence alleged to have been committed by the detenu has rightly branded him as goonda by way of passing the impugned Detention Order and the same does not suffer from any infirmity and therefore, the present petition deserves to be dismissed.

5. Learned counsel appearing for the petitioner has contended to the effect that on the side of the detenu, a representation has been submitted to the concerned authorities. But, the same has not been disposed of without delay and therefore, the Detention Order in question is liable to be quashed.

6. Learned Additional Public Prosecutor has contended to the effect that the representation submitted on the side of the petitioner has been duly disposed of without delay and therefore, the contention urged on the side of the petitioner is liable to be rejected.

7. On the side of the respondents, a proforma has been submitted, wherein, it has been clearly stated that in between

column Nos.7 and 9, 6 clear working days are available and no explanation has been given on the side of the respondents for such a delay 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.

8. In fine, this petition is allowed. The Detention Order dated 02.09.2016 passed in No.1015/BCDFGISSSV/2016 by the Detaining Authority against the detenu by name, Raji, aged 23 years, S/o.Heerabakdhur, 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//

Sub Assistant Registrar

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To

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai-9.
- 2.The Commissioner of Police,
Vepery, Chennai.
- 3.The Public Prosecutor,
High Court, Madras.
- 4.The Joint Secretary to Government,
Public (Law & Order) Fort St.George,
Chennai-600 009.
- 5.The superintendent, central prison,
puzhal, chennai-66.

In Duplicate for communication to Detenue

H.C.P.No.2451 of 2016

GP(CO)
GN(21/07/2017)