

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 28.07.2017

CORAM

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

H.C.P.No.2471 of 2016

A.Sundari .. Petitioner /Wife of the detenue

Vs

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

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

... Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS, to produce the records relating to the Detention Order dated 31.10.2016 made in C3/DO/26/2016 passed by the 2nd respondent herein, quash the same and direct the respondents to produce the body of the detenu Annadurai, aged 45 years, S/o.Azhagesan, who has been detained in Central Prison at Cuddalore, before this Hon'ble Court and set at liberty.

For Petitioner : Mr.R.Muruga Bharathi

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 C3/DO/26/2016 dated 31.10.2016 by the Detaining Authority against the detenu by name, Annadurai, aged 45 years, S/o.Azhagesan, residing at Pillaiyar Koil Street, Suthukulam, Cuddalore O.T., Cuddalore District and quash the same.

2. The Inspector of Police, Cuddalore O.T. 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. Cuddalore O.T. Police Station Crime No.348/2015 registered under Sections 4[1][aaa] and 4[1-A] @ 4[1][aaa] of TNP Act.
- ii. Cuddalore O.T. Police Station Crime No.50/2016 registered under Sections 4[1][aaa] and 4[1-A] @ 4[1][aaa] of TNP Act.
- iii. Cuddalore O.T. Police Station Crime No.132/2016 registered under Sections 4[1][aaa] and 4[1-A] @ 4[1][aaa] of TNP Act.
- iv. Cuddalore O.T. Police Station Crime No.272/2016 registered under Sections 4[1][aaa] and 4[1-A] @ 4[1][aaa] of TNP Act.
- v. Cuddalore O.T. Police Station Crime No.607/2016 registered under Sections 4[1][aaa] and 4[1-A] of TNP Act.

3. Further it is averred in the affidavit that on 19.10.2016, the Inspector of Police, Cuddalore O.T. and others have conducted a raid, at that time, they have found the detenu is in possession of illicit arrack and after observing due formalities, a case has been registered in Crime No.685/2016 under Sections 4[1][aaa] and 4[1-A] of TNP Act 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 bootlegger by way of passing the impugned Detention Order and in order to quash the same, the present petition has been filed by the wife of the detenu 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 bootlegger 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.

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

7. Learned Additional Public Prosecutor has contended that the representation submitted on the side of the detenu has been 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 between column Nos.7 and 9, 6 clear working days are available. Likewise, in between column Nos.12 and 13, 16 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 31.10.2016 passed in C3/DO/26/2016 by the Detaining Authority against the detenu by name, Annadurai, aged 45 years, S/o.Azhagesan, 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 II)

/true copy/

Sub Asst. Registrar

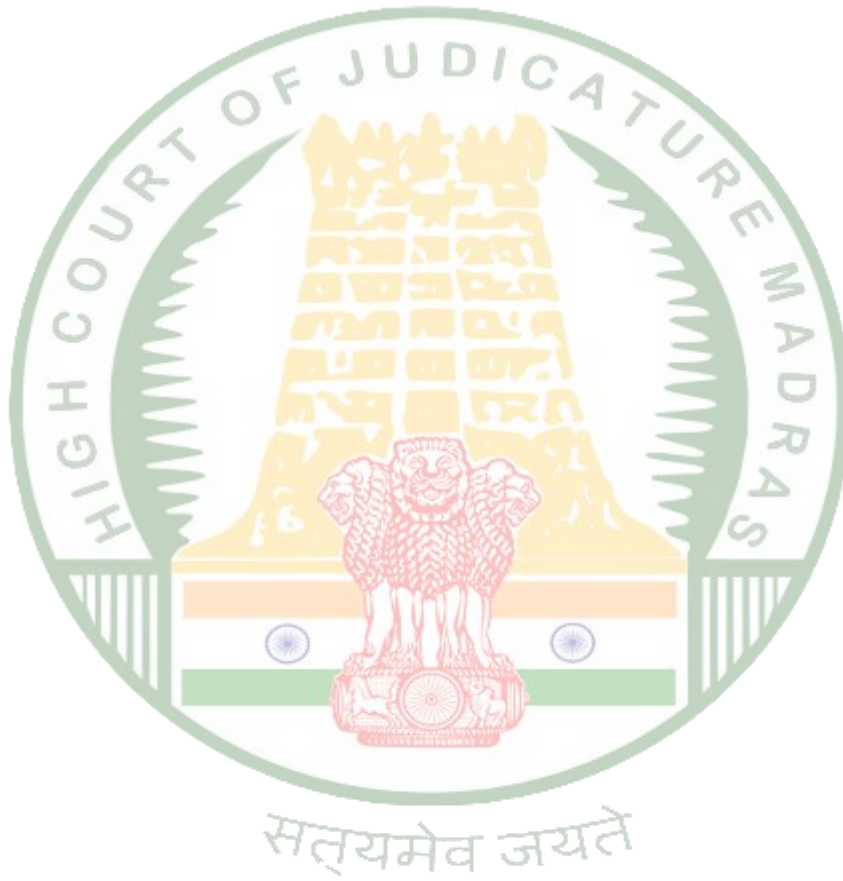
To

- 1.The Secretary to the Government,
Government of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St. George, Chennai-9.
- 2 The District Collector and District Magistrate,
Cuddalore District,
Cuddalore.
- 3.The Joint Secretary,
Government of Tamil Nadu,
Public (Law & Order)Department,
Secretariat,
Fort St.George,
Chennai.
- 4.The Superintendent,
Central Prison, Cuddalore.

5.The Public Prosecutor,
High Court, Madras.

H.C.P.No.2471 of 2016

RSI (CO)
NR 29/07/2017



WEB COPY