

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 03.07.2017

CORAM

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

H.C.P.No.2492 of 2016

R.Kanika

.. Petitioner

Vs

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

2.The Commissioner of Police,
Detaining Authority [Goondas Act],
Coimbatore.

3.The Inspector of Police,
E-2, Peelamedu Police Station,
Coimbatore.

... 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 second respondent pertaining to the order made in C.No.54/G/IS/2016 dated 10.11.2016 detained the detainee under Section 3[1] of Tamil Nadu Act 14 of 1982, as a Goonda and quash the same and direct the respondents to produce the detainee who is R.Marimuthu, S/o.Radhakrishnan, Male, aged about 26 years old, who is detained at Central Prison at Coimbatore before this Hon'ble Court and set him at liberty.

For Petitioner : Mr.S.Ramajayam
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 10.11.2016 passed in C.No.54/G/IS/2016 against the detainee by name, R.Marimuthu by the Detaining Authority, viz., the second respondent herein and quash the same.

2. The Inspector of Police, Peelamedu Police Station [third respondent herein] as Sponsoring Authority has submitted an affidavit to the Detaining Authority, wherein, it is stated to the effect that the detainee has involved in the following cases.

- i. Coimbatore City E-2 Peelamedu Police Station Crime No.350/2016 registered under Section 392 of Indian Penal Code.
- ii. Coimbatore City E-2 Peelamedu Police Station Crime No.742/2016 registered under Section 392 of Indian Penal Code.
- iii. Coimbatore City E-2 Peelamedu Police Station Crime No.761/2016 registered under Section 392 of Indian Penal Code.

3. Further, it is averred in the affidavit that on 04.10.2016, one R.Nivash Krishnan, S/o.Ranganathan, Door No.47, Gowthamapuri, V.K.R.Nagar, Peelamedu, Coimbatore has given a complaint against the detainee in Peelamedu Police Station and the same has been registered in Crime No.878/2016 under Section 392 read with 397 of Indian Penal Code and ultimately, requested the Detaining Authority to invoke Act 14 of 1982 against the detainee. As per the Detaining Authority, after considering the averments made in the affidavit and other connected documents, has arrived a satisfied conclusion that the detainee is a habitual property offender and ultimately, branded him as goonda by way of passing impugned Detention Order and in order to quash the same, the present petition has been filed by the mother of the detainee as petitioner.

4. On the side of the respondents, a detailed counter has been filed, wherein, it is averred to the effect that all the averments made in the affidavit are false and the Detaining Authority after considering all the materials furnished by the Sponsoring Authority, has rightly invoked Act 14 of 1982 against the detainee and therefore, the Detention Order does not want any interference and ultimately, prays to dismiss the petition.

5. Learned counsel appearing for the petitioner has contended to the effect that the petitioner has given a representation on 17.11.2016. On disposing of the same, delay has occurred and no explanation has been given on the side of the respondents and therefore, the Detention Order in question is liable to be quashed.

6. Learned Additional Public Prosecutor has also equally contended to the effect that the Detaining Authority after considering all the averments made in the affidavit submitted by the Sponsoring Authority and also after perusing all the materials has rightly invoked Act 14 of 1982 and further, the representation submitted by the petitioner duly disposed of without delay and therefore, the Detention Order in question need not be quashed.

7. On the side of the respondents, proforma has been submitted. Wherein, it has been strictly stated by the offender that in between column No.7 and 9, from 21.11.2016 to 28.11.2016, six days delay has occurred. Likewise, in between column No.12 and 13, from 30.11.2016 to 24.12.2016, delay of eighteen days has occurred and no explanation has been given on the side of the respondents for the huge delay on disposing of the representation given by the petitioner.

8. Since, an enormous delay has been occurred in disposing of the representation submitted by the petitioner, this Court is of the view that the Detention Order in question is liable to be quashed.

9. In fine, this Habeas Corpus Petition is allowed and the Detention Order dated 10.11.2016 passed in C.No.54/G/IS/2016 against the detenu by name, R.Marimuthu by the second respondent is quashed. The detenu is set at liberty forthwith unless he is required to be incarcerated in any other case.

Sd/-
Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

To

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai-9.
- 2.The Commissioner of Police,
Detaining Authority [Goondas Act],
Coimbatore.
- 3.The Inspector of Police,
E-2, Peelamedu Police Station,
Coimbatore.

4.The Superintendent,
Central Prison,
Coimbatore

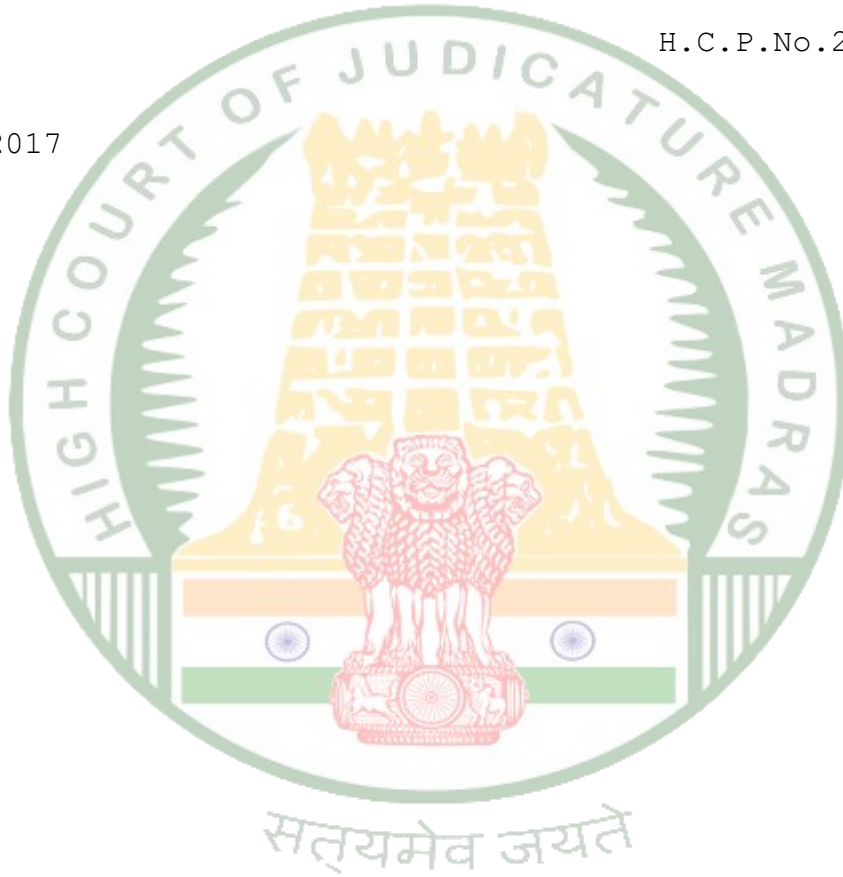
5.The Joint Secretary to Government,
Public (Law & Order)
Fort St.George, Chennai.

6.The Public Prosecutor,
High Court, Madras.

+lcc to Mr.S.Ramajayam, Advocate in sr.no.46108

H.C.P.No.2492 of 2016

SVI (CO)
NR 03/07/2017



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