

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 26.07.2017

CORAM

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

H.C.P.No.2529 of 2016

L.Padmavathy ... Petitioner/Wife of Detenue

Vs

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

2.The Commissioner of Police,
Greater Chennai City Police,
Vepery, Chennai-7.

... 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 on 03.11.2016 in No.1135/BCDFGISSSV/2016 against the detenue C.Lokesh @ Kutti, aged 33 years, S/o.Chellappan, who is now confined in 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.P.Parthipan

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

No.1135/BCDFGISSSV/2016 dated 03.11.2016 by the Detaining Authority against the detenu by name, Lokesh @ Kutty, aged 33 years, S/o.Chellappan and quash the same.

2. The Inspector of Police, K-11 CMBT 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. P-2 Otteri Police Station Crime No.1762/2012 registered under Sections 451, 392 r/w 120[b], 397 and 342 of Indian Penal Code.

ii. K-11 CMBT Police Station Crime No.677/2016 registered under Section 302 of Indian Penal Code.

3. Further, it is averred in the affidavit that on 26.08.2016, one Rajendran, S/o.Kasilingam, running a bunk shop in the name of Aruna Cool Bar at No.1, 100 Feet Road Kaliyamman Koil Street, Chennai-107, as de facto complainant has given a complaint in K-11 CMBT Police Station, wherein, it is alleged that on the same day, while the de facto complainant is looking after his business, the detenu has barged into the scene and demanded money from the de facto complainant by showing a deadly weapon and subsequently, he has taken Rs.1,500/- from cash box and due to that, a case has been registered in Crime No.732/2016 under Sections 294[b], 323, 336, 427, 397 and 506[ii] 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 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. Even though this petition has been posted today finally for filing counter on the side of the respondents, counter has not been filed.

6. Under such circumstances, this petition is disposed of on merits on the basis of the available materials.

7. Learned counsel appearing for the petitioner has contended to the effect that the detaining authority has supplied a booklet to the detenu, wherein, at page No.8, copy of the First Information Report is available and the same is not readable. Likewise, the Tamil translation of remand order is not identical with the English translation.

8. Considering the aforesaid infirmities found in the booklet, this Court is of the view that the Detention Order in

question is liable to be quashed.

9. In fine, this petition is allowed. The Detention Order dated 03.11.2016 passed in No.1135/BCDFGISSSV/2016 by the Detaining Authority against the detenu by name, Lokesh @ Kutty, aged 33 years, S/o.Chellappan is quashed and directed to set him at liberty forthwith, unless he is required to be incarcerated in any other case.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Secretary to the Government,
Government of Tamil Nadu,
Home, Prohibition and Excise Department,
Secretariat, Chennai-9.
- 2.The Commissioner of Police,
Greater Chennai City Police,
Vepery, Chennai-7.
- 3.The superintendent, central prison,
puzhal, chennai-66.
- 4.The Joint Secretary to Government,
Public (Law & Order) Fort St.George,
Chennai-600 009.
- 5.The Public Prosecutor,
High Court, Madras.

NMI (CO)
GN(26/07/2017)

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