

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 19.07.2017

CORAM

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

H.C.P.No.2571 of 2016

Krishnaveni

... Petitioner

Vs

1. The State of Tamil Nadu
Rep. By its Secretary to Government
Home, Prohibition and Excise Department
Fort St. George
Chennai - 600 009

2. The Commissioner of Police
Salem City, Salem
Salem 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 pertaining to the order of detention in C.M.P.No.64/Goonda/Salem City/2016 dated 17.08.2016 and set aside the same and direct the respondents to produce the detenu R.Deenadayalan, S/o.Rajavel, aged 26 years, confined in Central Prison Salem, before this Court, and set him at liberty.

For Petitioner : Mr. C.K.M.Appaji

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 the records relating to the detention order passed in C.M.P.No.64/Goonda/Salem City/2016 dated 17.08.2016, against the detenu by name, Deenadayalan, aged 26 years, S/o.Rajavel,

residing at Indira Nagar, 9th Cross, Kannankurichi, Salem - 8 and quash the same.

2. The Inspector of Police, Kannankurichi Police Station, as Sponsoring Authority, has submitted an affidavit to the Detaining Authority, wherein, it is stated that the detenu has involved in the following adverse cases:-

i) Komangalam Police Station, Crime No.150 of 2015, registered under Sections 392 r/w.397 of Indian Penal Code altered into Sections 395 r/w.397 of Indian Penal Code;

ii) Edapady Police Station, Crime No.497 of 2015, registered under Sections 457 and 380 of Indian Penal Code; and

iii) Annadanapatty Police Station, Crime No.516 of 2015, registered under Sections 341, 392 r/w.397 of Indian Penal Code.

3. Further, it is averred in the affidavit that on 02.07.2016, one Anandan, S/o.Mani, 42, Pachapillai Street, Raiter Thottam, Kannankurichi, Salem, as defacto complainant, has given a complaint against the detenu, wherein it is stated that in the place of occurrence, by placing a deadly weapon on the neck of the defacto complainant, the detenu has snatched a sum of Rs.1200/-, cell phone, wrist watch etc., and consequently, a case has been registered in Crime No.291 of 2016 under Sections 341, 392 r/w.397, 427 and 506(ii) of Indian Penal Code and Section 25(1B)(b) of the Indian Arms Act, 1959 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, has derived a subjective satisfaction to the effect 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 mother of the detenu, as petitioner.

5. On the side of the respondents, a counter has been filed, wherein, it is contended to the effect that most of the averments made in the petition are false and the Sponsoring Authority has submitted all the relevant materials to the Detaining Authority and the Detaining Authority, after considering all the materials, has derived a subjective satisfaction to the effect that the detenu is a habitual offender and ultimately, branded him as goonda by way of passing the impugned detention order and the same does not call for any interference and therefore, the present petition deserves to be dismissed.

6. The learned counsel appearing for the petitioner has contended to the effect that on the side of the detenu, a representation has been given, but the same has not been disposed of without delay and therefore, the Detention Order in question is liable to be quashed.

7. Per contra, the 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, 4 clear working days are available and in between column Nos.12 and 13, 20 clear working days are available and no explanation has been given on the side of the respondents with regard to such huge delay and that the same would affect the rights of the detenu guaranteed under Article 22(5) of the Constitution of India and that itself would be sufficient to quash the Detention Order in question.

9. In fine, this Habeas Corpus Petition is allowed and the Detention Order dated 17.08.2016 passed in C.M.P.No.64/GOONDA/Salem City/2016 by the second respondent against the detenu by name, Deenadayalan, aged 26 years, S/o.Rajavel, residing at Indira Nagar, 9th Cross, Kannankurichi, Salem- 8 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 VIII)

/true copy/

Sub Asst. Registrar

gpa

To

1. The Secretary to Government
Home, Prohibition and Excise Department
Fort St. George
Chennai - 600 009

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2. The Commissioner of Police
Salem City, Salem
Salem District

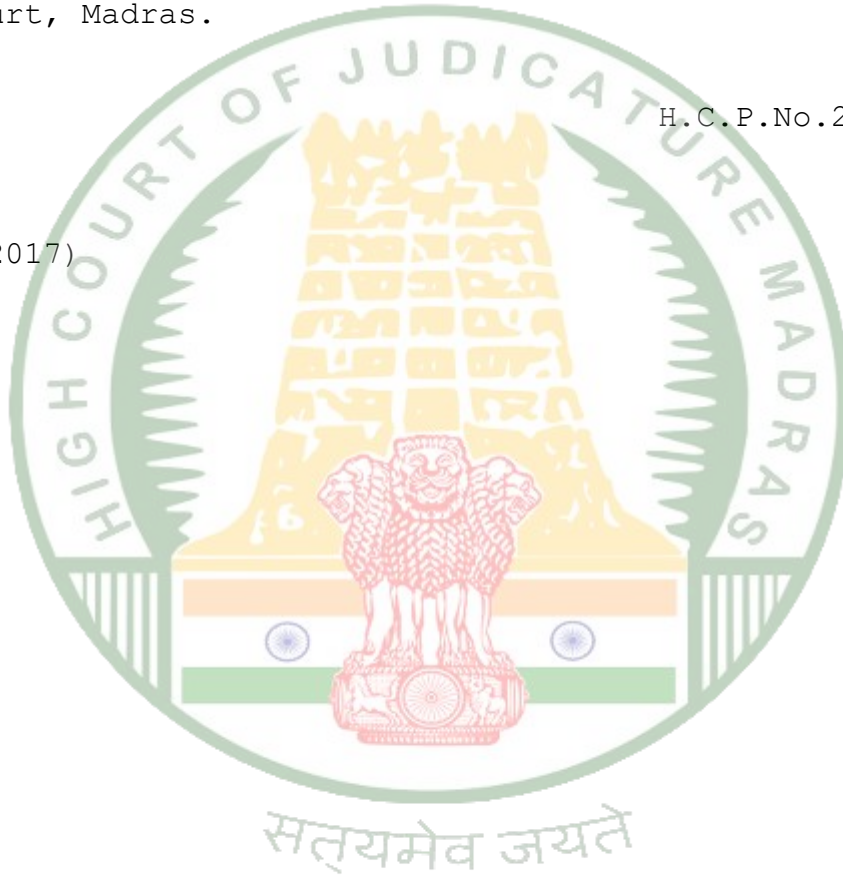
3.The Superintendent, Central Prison,
Salem. (In duplicate for communication to detainee)

4.The Joint Secretary to Government,
Public (Law & Order)
Fort St.George, Chennai-9.

5.The Public Prosecutor,
High Court, Madras.

H.C.P.No.2571 of 2016

SKS (CO)
VR(20/07/2017)



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