

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 04.07.2017

CORAM

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

H.C.P.No.2572 of 2016

Prince

... Petitioner

Vs

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

2.The District Magistrate and
the District Collector,
Thiruppur District, Thiruppur.

3.The Superintendent of Police,
Central Prison,
Coimbatore.

... Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS, to call for the entire records connected with the detention order of the 2nd respondent in Cr.M.P.No.28/Goonda/2016 dated 03.11.2016 and quash the same and direct the respondents to produce the body and person of petitioner son by name James @ Palanisamy, S/o.Ponnusamy aged 25 years detained in Central Prison, Coimbatore, before this Hon'ble Court and set him at liberty forthwith.

For Petitioner : Mr.S.Mohamed Ansar

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 records relating to the detention order passed in Cr.M.P.No.28/Goonda/2016 dated 03.11.2016 against the detainee by name, James @ Palanisamy, S/o.Ponnusamy by the Detaining Authority who has been arrayed as second respondent herein and quash the same.

2. The Inspector of Police, Perunamanallur Police Station as Sponsoring Authority has submitted an affidavit to the Detaining Authority, wherein, it is averred that the detainee has involved in the following adverse cases.

- i. Tiruppur Rural Police Station Crime No.771/2013 registered under Sections 366[A] and 376[i] of Indian Penal Code.
- ii. Perunamanallur Police Station Crime No.283/2014 registered under Section 302 of Indian Penal Code.

3. Further, it is averred in the affidavit that on 26.08.2016, at about 09.30hrs, one Dinesh has given a complaint against the detainee in Perunamanallur Police Station and the same has been registered in Crime No.964/2016 under Sections 457 and 397 of Indian Penal Code and ultimately, requested the Detaining Authority to invoke Act 14 of 1982 against the detainee. The Detaining Authority, after considering the averments made in the affidavit and other connected materials, has arrived to a subjective satisfaction and ultimately, branded the detainee 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 detainee as petitioner.

4. On the side of the respondents, a detailed counter has been filed, wherein, it is averred that most of the averments made in the affidavit are false and the Detaining Authority after considering the materials placed before him, has rightly invoked Act 14 of 1982 against the detainee and further, the representation given by the petitioner has been duly disposed of and there is no merit in the petition and the same deserves to be dismissed.

5. Learned counsel appearing for the petitioner has contended to the effect that on 21.11.2016, a representation has been given by the petitioner, 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 that the representation given by the petitioner has been disposed of without delay and therefore, the contention 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 on 21.11.2016, the representation in question has been received by the concerned authorities. Further, in between column Nos.7 and 9, seven clear working days are available and in between column Nos.12 and 13, nine clear working days are available and no explanation has been given on the side of the respondents for the delay.

8. Since, no explanation has been given on the side of the respondents in spite of disposal of representation dated 21.11.2016, this Court is of the view that this Detention Order is liable to be quashed.

9. In fine, this Habeas Corpus Petition is allowed and the Detention Order passed in Cr.M.P.No.28/Goonda/2016 dated 03.11.2016 by the second respondent against the detainee by name, James @ Palanisamy, S/o.Ponnusamy is quashed and the detainee is set at liberty forthwith unless he is required to be incarcerated in any other case.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

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To

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

2.The District Magistrate and
the District Collector,
Thiruppur District, Thiruppur.

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3.The Superintendent of Police,
Central Prison,
Coimbatore.

4.The Public Prosecutor,
High Court, Madras.

5.The Joint Secretary to Government
Public Law and Order
Fort St.George Chennai-9

H.C.P.No.2572 of 2016

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