

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.2573 of 2016

Muthukrishnan

... Petitioner

Vs

- 1.The Secretary to Government,
Home Prohibition and Excise Department,
Secretariat, Chennai-9.
- 2.The District Magistrate and
the District Collector,
Coimbatore, Coimbatore District.
- 3.The Superintendent of Prison,
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 records connected with the detention order of the 2nd respondent in Cr.M.P.No.37/G/2016/E1 dated 09.11.2016 and quash the same and direct the respondents to produce the body and person of petitioner's son by name Sabariraj, S/o.Muthukrishnan aged 27 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.37/G/2016/E1

dated 09.11.2016 against the detainee by name, Sabariraj, S/o.Muthukrishnan by the Detaining Authority and quash the same.

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

- i. Madurai District, Karuppayoorani Police Station Crime No.04/2014 registered under Sections 147, 148, 302 r/w 120 [b] of Indian Penal Code and 4[a][b] of Explosives Act, 1908.
- ii. Sivagangai District, Palayanur Police Station Crime No.34/2016 registered under Section 392 r/w 397 and 506[ii] of Indian Penal Code.

3. Further, it is averred in the affidavit that on 13.09.2016, one Balamurali, S/o.Govindan has given a complaint to the Sub Inspector of Police, Thondamuthur Police Station and the same has been registered in Crime No.245/2016 under Sections 392 r/w 397 of Indian Penal Code and ultimately, requested the Detaining Authority to invoke Act 14 of 1982 against the detainee.

4. The Detaining Authority after considering the averments made in the affidavit and also all materials placed before him, has arrived to a subjective satisfaction to the effect that the detainee is in the habit of committing crimes one after another 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 father of the detainee as petitioner.

5. On the side of the respondents, a counter has been filed, wherein, it is contended inter alia to the effect that most of the averments mentioned in the affidavit are false and the Sponsoring Authority has submitted relevant particulars to the Detaining Authority and the Detaining Authority after considering all 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 therefore, the present petition deserves to be dismissed.

6. Learned counsel appearing for the petitioner has contended to the effect that the petitioner has given a representation dated 21.11.2016, but the 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 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.

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, five clear working days are available and in between column Nos.12 and 13, sixteen clear working days are available and no explanation has been given on the side of the respondents for the enormous delay in disposing of such representation and that itself would be sufficient to quash the Detention Order.

9. In fine, this Habeas Corpus Petition is allowed and the Detention Order passed in Cr.M.P.No.37/G/2016/E1 dated 09.11.2016 by the second respondent against the detainee by name, Sabariraj, S/o.Muthukrishnan 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 V)

//True Copy//

Sub Assistant Registrar

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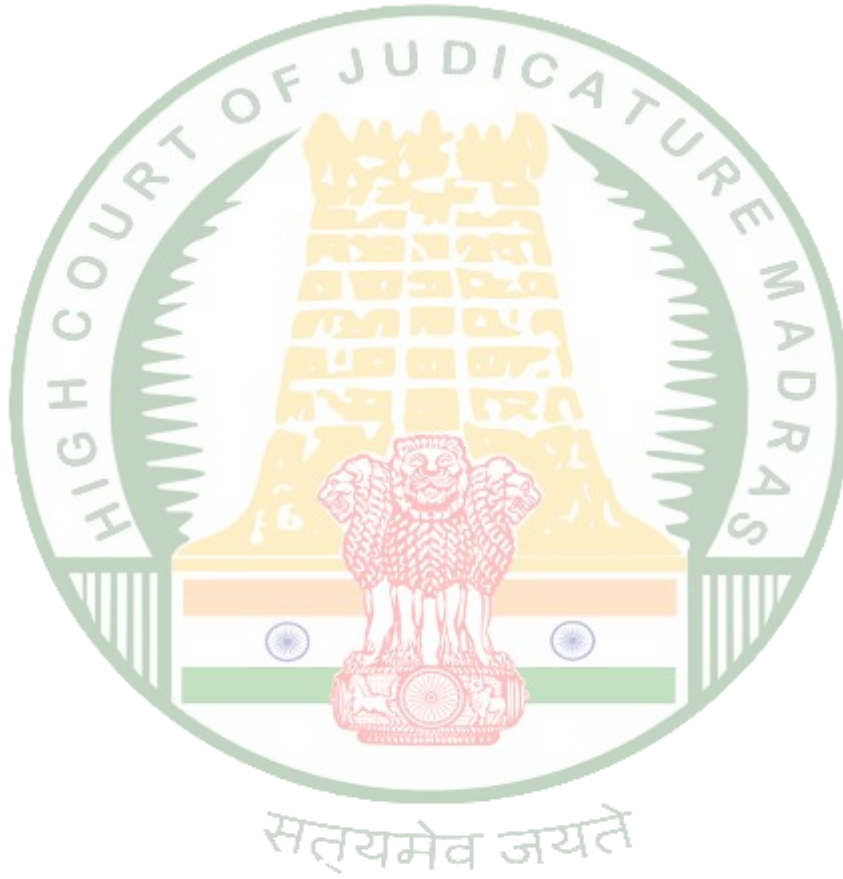
To

- 1.The Secretary to Government,
Home Prohibition and Excise Department,
Secretariat, Chennai-9.
- 2.The District Magistrate and the District Collector,
Coimbatore, Coimbatore District.
- 3.The Superintendent of Prison,
Central Prison,
Coimbatore.
- 4.The Public Prosecutor,
High Court, Madras.

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

H.C.P.No.2573 of 2016

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