

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. 2615 of 2016

T.Chitra

..Petitioner

Vs.

1. The District Collector and District Magistrate,
Vellore District, Vellore-9.

2. Government of Tamil Nadu
rep. by its Secretary,
Home, Prohibition and Excise Department,
Secretariat, Chennai-9.

3. The Superintendent,
Central Prison,
Vellore District.

...Respondents

Prayer:- This Petition is filed under Article 226 of the Constitution of India, praying for issuance of a writ of Habeas Corpus, calling for the records in Detention Order C3.D.O.No.76/2016 dated 22.11.2016 on the file of the 1st respondent and quash the same and direct the respondents herein to produce the body of the detenu Thavamani, M/A.44 years, now confined in Central Prison, Vellore before this Court and set him at liberty.

For Petitioner	: Ms.S.P.Arthi
For Respondents	: Mr.E.Raja, Addl.P.P.

ORDER

(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 dated 22.11.2016 passed in C3.D.O.No.76/2016 by the Detaining Authority. He has been arrayed as the 1st respondent herein against the detenu by name Thavamani, son of Singaram and quash the same.

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

1. Veppankuppam Police Station Crime No.173/2016 registered under Sections 4(1) aaa, 4(1-A) ii TNP Act, 1937 @ 4(1) aaa TNP Act, 1937;

2. Veppankuppam Police Station Crime No.214/2016 registered under Sections 4(1)(i), 4(1) aaa, 4(1-A) ii TNP Act, 1937; and

3. Veppankuppam Police Station Crime No.356/2016 registered under Sections 4(1) aaa, 4(1-A)ii TNP Act, 1937 @ 4(1) aaa TNP Act, 1937.

Further, it is averred in the affidavit that on 02.11.2016, the Inspector of Police and others have conducted a Prohibition Raid in various villages and on the same day at about 9.00 a.m., they found the detenu in possession of illicit arrack of 150 litres and ultimately, registered a case against him in Crime No.501/2016 under Sections 4(1)i, 4(1)aaa, 4(1-A)ii of TNP Act, 1937 read with Section 328 of IPC and ultimately requested the Detaining Authority to invoke Act 14 of 1982 against the detenu.

3. The Detaining Authority after considering the averments made in the affidavit and other connected documents, has derived subjective satisfaction to the effect that the detenu is a professional offender and ultimately branded him as a "Bootlegger" by way of passing the impugned detention order and in order to quash the same, the wife of the detenu-the petitioner has filed the present petition.

4. In the Counter affidavit filed on the side of the respondents, it is averred that the Detaining Authority, after considering all the averments made in the affidavit submitted by the Sponsoring Authority and other materials has derived satisfaction to the effect that the detenu is a professional offender and ultimately branded him as "Bootlegger" and therefore, the detention order in

question need not be quashed.

5. The learned Counsel appearing for the petitioner has contended to the effect that the petitioner has given a representation, but the same has not been disposed of without delay and therefore, the detention order in question is liable to be quashed.

6. The learned Additional Public Prosecutor has also argued to the effect that the representation given by the petitioner has been duly disposed of without delay and therefore, the present petition deserves to be dismissed.

7. On the side of the respondents, a Proforma has been submitted wherein it is clearly stated to the effect that in between Column Nos.12 and 13, delay of 7 clear working days are available and no explanation has been given on the side of the respondents and that would be sufficient to quash the detention order.

8. In fine, the Habeas Corpus Petition is allowed. The detention order dated 22.11.2016 passed in C3.D.O.No.76/2016 by the Detaining Authority is quashed and the detenu Thavamani, son of Singaram is set at liberty, unless he is required to be incarcerated

in any other case.

(A.S.J.,) (P.K.J.,)
03.07.2017

Index:Yes/No
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To

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

5.

**A.SELVAM,J
and
P.KALAIYARASAN,J.**

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