

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 05.07.2017

CORAM

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

H.C.P.No.2645 of 2016

Ravi ... Petitioner/Detenu

Vs

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

2.The Commissioner of Police,
Greater Chennai 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 entire records, relating to petitioner's detention under Tamil Nadu Act 14 of 1982 vide detention order, dated 22.11.2016 on the file of the second respondent herein made in proceedings BCDFGISSSV No.1171/2016 and quash the same as illegal and consequently direct the respondents herein to produce the said petitioner namely Ravi, S/o.Boopathy, aged 43 years before this Hon'ble High Court and set the petitioner at liberty from detention, now petitioner detained at Central Prison-II, Puzhal, Chennai-66.

For Petitioner : Mr.C.C.Chellappan
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.BCDFGISSSV No.1171/2016 dated 22.11.2016 by the Detaining Authority against the detenu by name, Ravi, S/o.Boopathy and quash the same.

2. The Inspector of Police, Peerkankaranai 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 :

- i. D-4 Otteri Police Station Crime No.2/2014 registered under Sections 457 and 380 of Indian Penal Code.
- ii. D-4 Otteri Police Station Crime No.24/2014 registered under Section 379 of Indian Penal Code.
- iii. D-4 Otteri Police Station Crime No.51/2014 registered under Sections 457 and 380 of Indian Penal Code.
- iv. D-4 Otteri Police Station Crime No.55/2014 registered under Section 380 of Indian Penal Code.
- v. D-4 Otteri Police Station Crime No.106/2014 registered under Sections 457 and 380 of Indian Penal Code.
- vi. D-4 Otteri Police Station Crime No.292/2014 registered under Section 379 of Indian Penal Code.

3. Further, it is averred in the affidavit that on 17.08.2016, one Ramajeyam, S/o.Soundarapandi, as de facto complainant has given a complaint against the detenu in Peerkankaranai Police Station and the same has been registered in Crime No.1650/2016 under Sections 341, 397 and 506[iii] 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 materials supplied to him, has arrived 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 detenu himself as petitioner.

5. On the side of the respondents, counter has been filed, wherein, it is averred to the effect that most of the averments made in the petition are false. The Sponsoring Authority has supplied all materials to the Detaining Authority.

6. The Detaining Authority after considering the relevant materials, has arrived a subjective satisfaction to the effect that the detenu is a habitual offender and ultimately, passed the impugned Detention Order and the same is not liable to be quashed and therefore, the present petition deserves to be dismissed.

7. Learned counsel appearing for the petitioner/detenu has contended to the effect that a representation has been given to the concerned authorities. But, the same has not been disposed of without delay and therefore, the Detention Order in question is liable to be quashed.

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, eight clear working days are available. Likewise, 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 huge delay and that itself would affect the rights of the detenu guaranteed under Article 22[5] of the Constitution of India and therefore, the Detention Order in question is liable to be quashed.

9. In fine, this petition is allowed. The Detention Order dated 22.11.2016 passed in No.BCDFGISSSV No.1171/2016 by the second respondent against the detenu by name, Ravi, S/o.Boopathy is quashed and directed the detenu to set him 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 Joint Secretary to Government,
Public (Law & Order)
Fort St.George, Chennai-9.
- 3.The Commissioner of Police,
Greater Chennai Police,
Vepery, Chennai-7.
- 4.The Superintendent Central prison,
Puzhal Chennai.
- 5.The Public Prosecutor,
High Court, Madras.

H.C.P.No.2645 of 2016

PVS (CO)
VR(05/07/2017)