

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 21.07.2017

CORAM

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

H.C.P.No.2666 of 2016

Chitra

... Petitioner

Vs

1.The Secretary to the Government,
Government of Tamil Nadu [Home],
Prohibition and Excise Department,
Fort St. George,
Chennai-9.

2.The Commissioner of Police
Greater Chennai
Vepery
Chennai - 600 007

... Respondents`

Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS, to call for the records of the 2nd respondent herein concerned in BCDFGISSSV No.1117/2016 dated 26.10.2016, set aside the order of detention passed therein against the detenu by name Vijayakumar, S/o.Kumar, aged 22 years quash the same and produce the detenu and set him at liberty now detained in Central Prison, Puzhal, Chennai.

For Petitioner : Mr.A.Nirmal Kumar

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 BCDFGISSSV No.1117 of 2016 dated 26.10.2016 by the Detaining Authority against the detenu by name, Vijayakumar, aged 22 years, S/o. Kumar, No.57,

Kaliamman Koil Street, Meensurutti, Ariyalur District and quash the same.

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

- i. E-1, Mylapore Police Station, Crime No.845/2016, registered under Section 379 of Indian Penal Code;
- ii. F-5, Choolaimedu Police Station, Crime No.990/2016 registered under Section 379 of Indian Penal Code; and
- iii. R-10 MGR Nagar Police Station Crime No.1131/2016 registered under Section 379 of Indian Penal Code.

3. Further it is averred in the petition that on 26.08.2016, one Devaraj S/o.Natarajan, No.10, 3rd Street, Anna Sathya Nagar, West Jaffer Khanpet, Chennai -83, as de facto complainant, has given a complaint against the detenu in M.G.R.Nagar Police Station wherein it is alleged to the effect that in the place of occurrence by showing deadly weapon, the detenu has snatched a sum of Rs.350/- from the defacto complainant and consequently a case has been registered in Crime No.1133 of 2016 under Sections 341, 294[b], 336, 397 and 506[ii] 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 documents, has arrived at 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 detailed counter has been filed, wherein, it has been contended inter alia to the effect that most of the averments made in the petition are false. The Sponsoring Authority has supplied all the relevant materials to the Detaining Authority. The Detaining Authority after considering all the relevant materials and other connected documents, has arrived at a subjective satisfaction to the effect that the detenu is a habitual offender by way of passing the impugned detention order and the same does not suffer from any infirmity 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 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.

7. Learned Additional Public Prosecutor has contended that the representation given by the petitioner has been disposed of without delay and the said circumstances, the present petition deserves to be dismissed.

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, four clear working days are available and in between column Nos.12 and 13, three clear working days are available and no explanation has been given on the side of the respondents with regard to such delay and the same 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 26.10.2016 passed in No.BCDEFGISSSV No.1117 of 2016 by the first respondent against the detenu by name, Vijayakumar, aged 22 years, S/o. Kumar, No.57, Kalliamman Koil Street, Meensurutti, Ariyalur District is quashed and directed to set him at liberty forthwith unless he is required to be incarcerated in any other case.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

gpa

To

1.The Secretary to the Government,
Government of Tamil Nadu [Home],
Prohibition and Excise Department,
Fort St. George,
Chennai-9.

2.The Commissioner of Police
Greater Chennai
Vepery
Chennai - 600 007

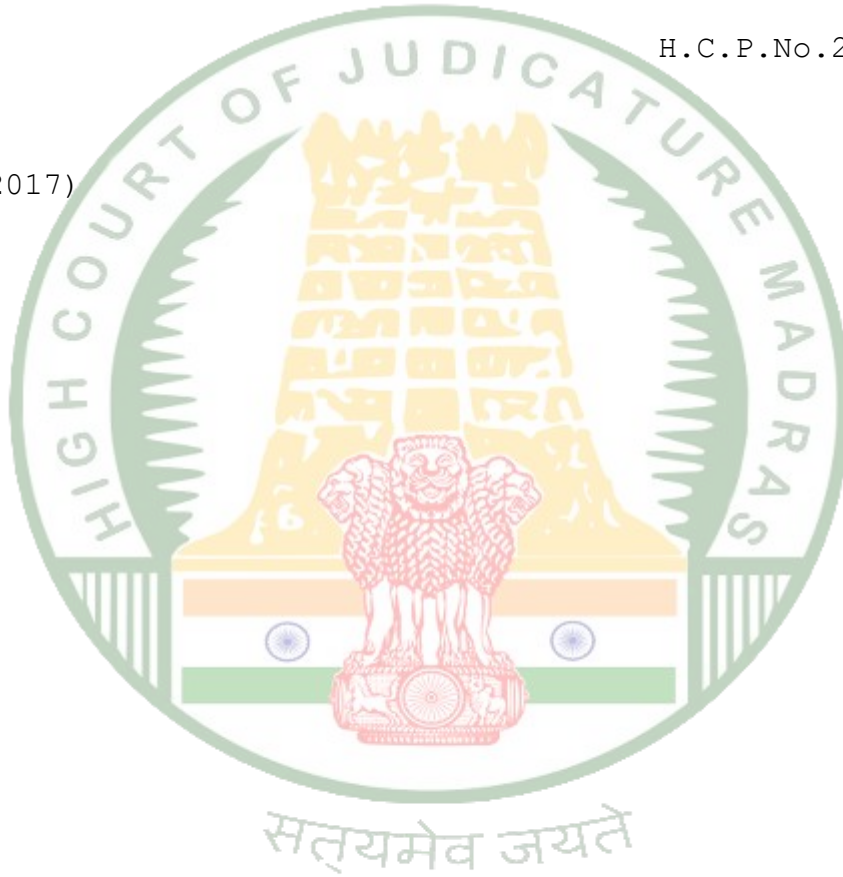
3.The Superintendent, Central Prison,
Puzhal, Chennai.
(In duplicate for communication to Detenue)

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.2666 of 2016

SKV(CO)
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