

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.08.2017

CORAM

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

H.C.P.No.2672 of 2016

Selvi

... Petitioner

Vs

1. The Secretary to Government,
Prohibition and Excise Department,
Secretariat, Fort St. George
Chennai-9.
2. The Commissioner of Police/
Detaining Authority
Coimbatore City
Coimbatore
3. The Inspector of Police
Law & Order
E-3, Saravanampatty Police Station
Coimbatore City
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 order of the 2nd respondent herein in C.No.60/G/IS/2016 dated 28.11.2016 against the petitioner's son, namely B.Karthi, aged 24 years, S/o.Balakrishnan, who is confined at Central Prison, Coimbatore, set aside the same and consequently direct the respondents to produce the body and person of the detenu before this Court and set him at liberty forthwith.

For Petitioner : Mr.G.Karthikeyan

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 C.No.60/G/IS/2016 dated 28.11.2016 by the Detaining Authority against the detenu by name, B.Karthi, aged 24 years, S/o.Balakrishnan, residing at Door No.32, Bhagavath Singh, 3rd Street, "More Market", Ganapathy, Coimbatore and quash the same.

2. The Inspector of Police, E-3 Saravanampatty Police Station, as Sponsoring Authority, has submitted an affidavit to the Detaining Authority, wherein, it is averred to the effect that on 18.09.2016, at about 23 hours, one Mohammed Faizal @ Faizal, S/o.Kamaludeen, residing at Door No.22/23, Krishnaraj Colony, Sidha Thottam, Ganapathy, Coimbatore, as de facto complainant, has lodged a complaint wherein it is averred to the effect that the present detenu and his henchmen in the place of occurrence have brutally attacked one Abdul Hakkim by using deadly weapon and they have also attacked other persons and due to their overt acts, the said Abdul Hakkim has passed away and other persons have sustained serious injuries. Under such circumstances, a case has been registered in Crime No.580/2016 under Sections 147, 148, 341, 307 and 302 of Indian Penal Code 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 a subjective satisfaction to the effect that the detenu has committed grave offence 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.

4. In the counter filed on the side of the respondents, it is averred to the effect that most of the averments made in the petition are false. The Sponsoring Authority has submitted all the relevant records to the Detaining Authority. The Detaining Authority, after considering all the materials, has derived a subjective satisfaction to the effect that the detenu has committed a grave offence and ultimately branded him as "Goonda" by way of passing the impugned Detention Order and the same does not call for any interference and therefore, the present petition deserves to be dismissed.

5. Learned counsel appearing for the petitioner has contended to the effect that on the side of the detenu, two

representations have been submitted and the same have 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 representations submitted on the side of the detenu are duly disposed of without delay and under said circumstances, the contention put forth 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 in respect of first representation, in between column Nos.7 and 9, eight clear working days are available and in respect of second representation, in between column Nos.7 and 9, eight clear workings days are available and in between column Nos.12 and 13, five 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.

8. In fine, this petition is allowed. The Detention Order dated 28.11.2016 passed in C.No.60/G/IS/2016 by the Detaining Authority against the detenu by name, B.Karthi, aged 24 years, S/o.Balakrishnan, residing at Door No.32, Bhagavath Singh, 3rd Street, "More Market", Ganapathy, Coimbatore, is quashed and directed to set him at liberty forthwith unless he is required to be incarcerated in any other case.

Sd/-
Assistant Registrar(CCC)

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

gpa

To

1. The Joint Secretary to Government of Tamil Nadu, Public [Law and Order] Department, Secretariat, Chennai-9.
2. The Secretary to Government, Prohibition and Excise Department, Secretariat, Fort St. George Chennai-9.

3. The Commissioner of Police/
Detaining Authority
Coimbatore City
Coimbatore
4. The Inspector of Police
Law & Order
E-3, Saravanampatty Police Station
Coimbatore City
Coimbatore
5. The Superintendent
Central Prison, Coimbatore
6. The Public Prosecutor,
High Court, Madras.

H.C.P.No.2672 of 2016

MP(CO)
CA(04/08/2017)



WEB COPY