

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.2681 of 2016

Amala

.. Petitioner/Wife of the
Detenue

Vs

1.The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai-9.

2.The District Magistrate and District Collector,
Thiruvarur District,
Thiruvarur District.

.. Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS, calling upon the production of the records relating to the detention order dated 15.11.2016 made in detention order C.O.C.No.22 of 2016 passed by the 2nd respondent herein quash the same and direct the respondents to produce the body of the detenue Thiru.Kanmani, aged 26 years, S/o.Chittrambalam who has been detained in Central Prison at Trichy, before this Hon'ble Court and set him at liberty.

For Petitioner : Mr.Greetha Senthilkumar

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 the records relating to the detention order passed in C.O.C.No.22 of 2016 dated 15.11.2016 against the detenue by name, Kanmani, S/o.Chittrambalam by the Detaining Authority who has been

arrayed as second respondent herein and quash the same.

2. The Inspector of Police, Tiruvarur Town Police Station as Sponsoring Authority has submitted an affidavit to the Detaining Authority, wherein, it is averred to the effect that on 17.09.2016, one Marimuthu @ Ravi, S/o.Durairaj as de facto complainant has given a complaint against the detainee and the same has been registered in Crime No.474/2016 under Section Man Missing and subsequently, altered into under Sections 120[b], 379, 414 and 302 of Indian Penal Code and ultimately, requested the Detaining Authority to invoke Act 14 of 1982 against the detainee.

3. The Detaining Authority after considering the averments made in the affidavit and other connected documents, has derived to a subjective satisfaction to the effect that the detainee is in the habit of committing crimes and ultimately, passed the impugned order and thereby, branded him as goonda and in order to quash the same, the present petition has been filed by the wife of the detainee as petitioner.

4. 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 and the Detaining Authority, after considering the materials placed before him, has derived to a subjective satisfaction that the detainee is in the habit of committing crimes and ultimately, passed the impugned Detention Order and the same does not call for any interference.

5. Learned counsel appearing for the petitioner has contended to the effect that on 19.11.2016, a representation has been given to the concerned authorities, but the same has not been disposed of and therefore, the Detention Order in question is liable to be quashed.

6. Learned Additional Public Prosecutor has contended that the petitioner has not sent any representation to the State Government.

7. It is seen from the records that on 19.11.2016, a representation has been given to the State Government, but the same has not been considered.

8. Considering the aforesaid factual aspects, this Court is of the view that the Detention Order in question is liable to be quashed.

9. In fine, this Habeas Corpus Petition is allowed. The Detention Order passed in C.O.C.No.22 of 2016 dated 15.11.2016 by the second respondent herein against the detainee, by name, Kanmani, S/o.Chittrambalam is quashed and directed to set the detainee at liberty forthwith unless he is required to be incarcerated in any other case.

Sd/-
Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

gya

To

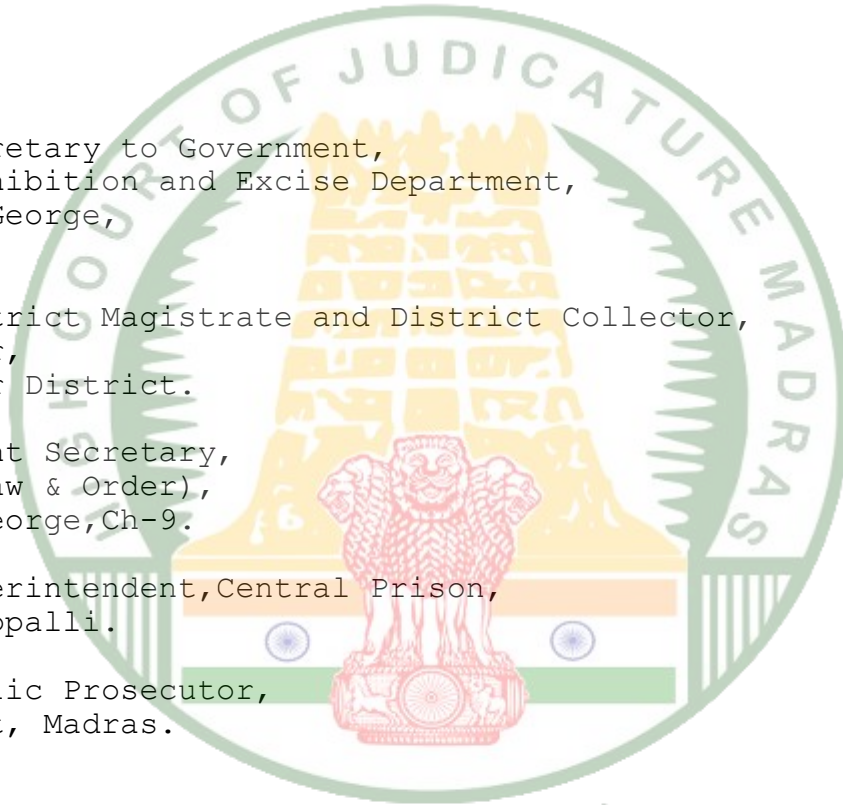
1.The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai-9.

2.The District Magistrate and District Collector,
Thiruvarur,
Thiruvarur District.

3.The Joint Secretary,
Public (Law & Order),
Fort St.George,Ch-9.

4.The Superintendent,Central Prison,
Tiruchirappalli.

5.The Public Prosecutor,
High Court, Madras.



सत्यमेव जयते H.C.P.No.2681 of 2016

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ss(5/7/2017)

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