

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.08.2019

CORAM

THE HONOURABLE Mr.JUSTICE N. ANAND VENKATESH

Cr1.O.P.No.19881 of 2019

H.Sathak Ahmed Shaw

... Petitioner

.Vs.

1. The Commissioner of Police,
EVK Sampath Road,
Vepery, Chennai.

2. N.Dhanraj Kochar

3. Ramesh Kumar Kochar

4. Inderchand D. Kochar

5. D.Suresh Kumar Kochar

6. Jitesh Kumar Kochar

7. Shrenic Kumar Kochar

8. Naveen Kumar Kochar

... Respondents

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to direct the 1st respondent to consider and pass orders on the representation of the petitioner dated 23.03.2019 and reminder dated 08.07.2019.

For Petitioner : Mr.S.Doraiswamy

For Respondents : Mr.M.Mohamed Riyaz
Additional Public Prosecutor
for R1

Mr.B.Kumar
Senior Counsel for
Mr.K.Dhananjayan for R2 to R8

O R D E R

This petition has been filed seeking for a direction to the 1st respondent to consider the representation made by the petitioner and pass orders in accordance with law.

2. The representation made by the petitioner is to the effect that there are several cases pending against the accused persons who are shown as respondents in this petition and therefore effective steps must be taken to pass a detention order under Act 14 of 1982 since all the offences are serious in nature and these offences are committed in a habitual manner.

3. The learned counsel for the petitioner submitted that the respondent police ought to have considered the representation made by the petitioner and taken appropriate action in accordance with law. Since no action was taken by the respondent police, the petitioner is forced to approach this Court seeking for the disposal of the representation.

4. The learned Additional Public Prosecutor submitted the status report before this Court by bringing to the notice of this Court, the cases that are pending against the accused person and the stage of the case. The learned counsel further submitted that an order of detention cannot be passed based on the representation made by the petitioner and it has to be done only by means of report received from the sponsoring authority to the detaining authority. The learned counsel submitted that the passing of the detention order requires application of mind and it cannot be passed merely based on representation received from private individuals.

5. Mr.B.Kumar, the learned Senior Counsel appearing on behalf of the respondents 2 to 8 submitted that the relief sought for by the petitioner is not maintainable and such directions cannot be issued by this Court in exercise of its jurisdiction under Section 482 of Cr.P.C. The learned Senior Counsel in order to substantiate his submissions also brought to the notice of this Court, two earlier orders passed by this Court under similar circumstances wherein such relief was denied by this Court.

6. This Court has carefully considered the submissions made on either side and also the materials available on record.

7. Even though, the relief sought for in this petition is for a direction to the 1st respondent to consider the representation made by the petitioner, the representation made to the 1st respondent is to the effect that the 1st respondent should pass detention order under Act 14 of 1982 against the

accused persons, taking into consideration the seriousness of the offences and habitual nature in which it is being committed. Therefore, if any direction is given by this Court to the 1st respondent to dispose of the representation, it will indirectly amount to giving a direction to the 1st respondent to consider passing a detention order under Act 14 of 1982.

8. This Court has taken a consistent view in Crl.O.P.No.18504 of 2015, dated 24.07.2015 and Crl.O.P.No.5385 of 2018, dated 13.03.2018 that this Court cannot exercise its jurisdiction under Section 482 of Cr.P.C. and direct the authorities to pass detention orders. In view of the consistent orders passed by this Court, this Court does not want to deviate from the same and wants to maintain the consistency in not directing the authorities to pass orders of detention based on representations.

9. In view of the above, the relief as sought for by the petitioner cannot be granted by this Court and if the petitioner has any other avenue to workout his remedy, he may do so, if it is permitted by law.

10. In the result, this Criminal Original Petition is dismissed.

ssr

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Commissioner of Police,
EVK Sampath Road,
Vepery, Chennai.

2. The Public Prosecutor,
High Court, Madras.

+lcc to Mr.K.Dhananjayan, Advocate, SR.No.70141

+lcc to Mr.S.Doraisamy, Advocate, SR.No.70280

Crl.O.P.No. 19881 of 2019

Kak(28/09/2019)