

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31/08/2004

CORAM

THE HONOURABLE MR.JUSTICE P.SATHASIVAM

AND

THE HONOURABLE MR.JUSTICE M.CHOCKALINGAM

H.C.P.No.599 of 2004

R.Jansi Rani .. Petitioner

-Vs-

1. The State of Tamil Nadu

rep. by its Secretary to

Government

Prohibition and Excise

Department

Fort St. George, Chennai 9.

2. The District Magistrate and

District Collector,

Kancheepuram District

Kancheepuram .. Respondents

This habeas corpus petition is filed under Article 226 of the Constitution of India praying to issue a writ of habeas corpus directing the respondents to produce the body of the petitioner's husband by name Raja @ Rajan now confined at Central Prison, Chennai before this Court and set him at liberty forthwith by calling for the records pertaining to the detention order dated 23.4.2004 made in B.D.F.G.I.S.No.22 /2004 on the file of the second respondent and quash the same.

!For Petitioner : Mr.N.Manokaran

^For Respondents : Mr.Abudu Kumar Rajarathinam

Government Advocate

(Criminal Side)

:ORDER

(Order of the Court was made by P.SATHASIVAM, J.)

Petitioner is the wife of the detenu, who was detained as a goonda under Tamil Nadu Act 14 of 1982 by the impugned proceedings dated 23.4 .2004. The ground case relates to an occurrence that took place on 18 .3.2004 for the offences under Sections 457 and 380 I.P.C. The detenu has 22 cases to his credit, all relating to various offences under the Indian Penal Code.

2. Heard both sides.

3. Learned Counsel for the petitioner at the foremost submitted that

there is a delay in considering the representation of the detenu dated 5.5.2004. With regard to the said contention, the learned Government Advocate has produced particulars, which show that the representation was received by the Government along with the remarks on 11.5.20 04, and thereafter, the file was submitted to the Under Secretary and Deputy Secretary on 14.5.2004. The Minister for Prohibition and Excise has passed an order on 17.5.2004 rejecting the representation of the detenu. The rejection letter was prepared on 19.5.2004, and the same was served on the detenu on 20.5.2004. On going through the details furnished, we are of the view that there is no inordinate delay at every stage, as claimed by the learned Counsel for the petitioner; accordingly, we reject the first contention.

4. Learned Counsel for the petitioner submits that the detenu was not supplied copies relating to adverse cases, and only on his representation, the same were supplied in Malayalam. Even according to the petitioner, those details were supplied to the detenu in the language known to him (Malayalam). In such circumstances, it cannot be contended that he was prejudiced in not supplying those copies along with the detention order.

5. Finally, the learned Counsel for the petitioner, after taking us through voluminous documents i.e., paper book, supplied to the detenu, would submit that the signatures found on the left side of the said book are not the signatures of the detenu, and according to him, all the signatures were forged by the department. He also contends that because the documents and other materials were not supplied within the prescribed time, there is every possibility of forging his signatures in all those places.

6. With regard to the said contention, the learned Government Advocate brought to our notice that the signatures found in all these places are the signatures of the detenu, and he signed in the presence of the Additional Superintendent, Central Prison, Chennai 3, and the documents were acknowledged by him on 26.4.2004. He also brought to our notice the signatures in the other records such as acknowledgement relating to the receipt of the detention order and other places. According to him, there is no need for the respondents to forge his signatures, since the required documents/materials were supplied within the time prescribed. He also very much relied on the specific statement made by the District Magistrate and District Collector, Kancheepuram, the second respondent herein, in his counter-affidavit dated 19.6.2004 filed before this Court.

7. In the light of the claim made by both sides, we have perused the signatures found in the paper book supplied to the detenu, original records produced by the learned Government Advocate and the information furnished in the counter-affidavit of the second respondent.

8. It is seen from the paper book that the signature of the detenu dated 26.4.2004 was made in the presence of the Additional Superintendent of Central Prison, Chennai 3. We have also verified the files circulated to the Officers of the Department as well as the concerned Minister. All the acknowledgements/receipts were enclosed along with the file for necessary orders by the person concerned. It is also relevant to refer to the assertion made by the second respondent namely District Magistrate and District Collector, Kancheepuram. In para 1 2 of the counter-affidavit, the Officer has specifically stated as " I submit that the allegation of forging the

signature of the detenu is denied as false and frivolous. I submit that the signatures are those affixed by the detenu only." In the light of the materials found in the original records and in view of the assertion by the second respondent, we are unable to accept the contention raised by the learned Counsel for the petitioner; accordingly, we reject the same.

9. In the light of what is stated above, we do not find any valid ground for interference. Accordingly, this petition is dismissed.

Index: yes

Internet: yes

To:

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

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

nsv/

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