

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 31.08.2017

CORAM

THE HON'BLE Mr.JUSTICE A.SELVAM
and
THE HON'BLE Mr.JUSTICE N.AUTHINATHAN

H.C.P.No.595 of 2017

S.Ramya

.. Petitioner

Vs

1.The State of Tamil Nadu,
Rep. by its Secretary to Government,
Prohibition and Excise Department [Home],
Chennai-9.

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

... Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS, to call for the records in C3/DO/09/2017 dated 30.03.2017 on the file of the 2nd respondent and quash the same as illegal and consequently direct the respondents to produce the petitioner's husband B.Siva, aged 29 years, S/o.Balasubramanian, who is now detained in Central Prison, Cuddalore, before this Hon'ble Court and set him at liberty.

For Petitioner : Mr.K.Gandhi Kumar

For Respondents : Mr.V.M.R.Rajentren,
Additional Public Prosecutor

सत्यमेव जयते
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 C3/DO/09/2017 dated 30.03.2017 by the Detaining Authority against the detenu by name, B.Siva, aged 29 years, S/o.Balasubramanian, residing at Mariamman Koil Street, Chinna Pillayarmedu, SIPCOT Post, Cuddalore Taluk, Cuddalore District and quash the same.

2. The Inspector of Police, Cuddalore Old Town 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. Kullanchavadi Police Station Crime No.135/2016 registered under Sections 363 @ 147, 363, 366 and 506[ii] r/w 109 of the Indian Penal Code.
- ii. Orathur Police Station Crime No.84/2016 registered under Section 341, 324 and 307 of the Indian Penal Code.
- iii. Cuddalore O.T. Police Station Crime No.108/2017 registered under Sections 341, 294[b], 324 and 506[ii] of the Indian Penal Code.

3. Further, it is averred in the affidavit that on 14.03.2017, one Balaji, S/o.Murugan, as de facto complainant has given a complaint in Cuddalore O.T. Police Station, wherein, it is alleged to the effect that in the place of occurrence, the detenu has forcibly taken away a sum of Rs.400/- from the cash box of the de facto complainant by showing a knife and at such circumstances, a case has been registered in Crime No.112/2017 under Sections 392 and 506[ii] @ 392, 506[ii] r/w 397 of the Indian Penal Code and ultimately, requested the Detaining Authority to invoke Act 14 of 1982 against the detenu.

4. The Detaining Authority after perusing 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 wife of the detenu as petitioner.

5. On the side of the respondents, counter has not been filed and therefore, the present Habeas Corpus petition has been disposed of on merits on the basis of available materials on record.

6. Learned counsel appearing for the petitioner has contended to the effect that on the side of the detenu, a representation has been submitted, 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 also contended that the representation submitted on the side of the detenu has been duly disposed of without delay and therefore, the contention urged on the side of the petitioner is liable to be rejected.

8. On the side of the respondents, a proforma has been submitted, wherein, it is clearly stated that in between column Nos.7 to 9, 7 clear working days are available and in between column Nos.12 and 13, 17 clear working days are available and no

explanation has been given on the side of the respondents with regard to such huge 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 30.03.2017 passed in C3/DO/09/2017 by the Detaining Authority against the detenu by name, B.Siva, aged 29 years, S/o.Balasubramanian is quashed and directed to set him at liberty forthwith, unless he is required to be incarcerated in any other case.

Sd/-

Asst.Registrar (CS VIII)

/true copy/

Sub Asst. Registrar

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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 [Home],
Chennai-9.

3.The District Collector and District Magistrate,
Cuddalore,
Cuddalore District.

4.The Superintendent,
Central Prison, Cuddalore.
[in duplicate for communication to the detenu]

5.The Public Prosecutor,
High Court, Madras.

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SS(31/8/2017)