
(2006) 02 MAD CK 0170

In the Madras High Court

Case No : Habeas Corpus Petition No. 1117 of 2005

A. Geetha

APPELLANT

Vs

The State of Tamil Nadu

RESPONDENT

Date of Decision : 11-02-2006

Acts Referred:

Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS) — Section 22

Penal Code, 1860 (IPC) — Section 366

Transfer of Property Act, 1882 — Section 3(1), 4(1), 5(1), 6(1), 7(1)

Citation : (2006) 02 MAD CK 0170

Hon'ble Judges : P. Sathasivam, J; J.A.K. Sampathkumar, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

P. Sathasivam, J.—Petitioner, wife of the detenu by name Anandaraj @ Anand @ Anandan, who was detained as immoral traffic offender under Tamil Nadu Act 14/1982, challenges the same in this petition. The order of detention has been passed on the basis of ground case in Crime No. 175 /2005 on the file of Inspector of Police, Anti Vice Squad, Chindadripet Police Station for offences under Sections 3(1), 4(1), 5(1), 6(1) and 7(1) of I.T.P. Act and Section 366 I.P.C. The allegation against the detenu is that on 5-9-2005 at 17.15 hours, the Sub Inspector of Police proceeded on rounds to watch whether any prostitution business is going on at Vadapalani, Arcot Road in Chennai City. While he was proceeding at Vadapalani, Arcot Road near Avichi School, the detenu who was sitting in a red colour Maruthi car bearing Registration No. TN-07-J-772 and doing prostitution business. The detaining authority has also taken note of 3 adverse cases wherein the detenu involved in prostitution business. The offences under Sections 3(1), 4(1), 5(1), 6(1), 7(1) ITP Act and 366 IPC relate to keeping a brothel, living on the earnings of prostitution, procuring, inducing for the sake of prostitution, detaining women in premises where prostitution is carried on and doing prostitution in the vicinity of public place and abducting a women for prostitution as such punishable under I.T.P. Act and I.P.C. The investigation

disclosed that the detenu Anandaraj used to get young innocent and poor girls who were under poverty from the nearby Andhra State under the guise of getting employment and induced and forced them to indulge in prostitution business and also took out a house at No. 3/120, Krishna Nagar, 2nd Street, Madhanandhapuram, Porur, Chennai and by keeping the procured young girls in the said premises and at times took them to different places in Chennai City in cars and compel them into prostitution and earn huge money with the help of his associates and living in the said earnings. The investigation further disclosed that the detenu and his associates are doing prostitution in Chennai City at Vadapalani, Arcot Road near Higher Secondary School and spoiling the lives of young youths. Taking note of all these aspects and materials that the activities of the detenu are prejudicial to the maintenance of public order, and that recourse to normal criminal law would not have the desired effect in preventing him from indulging in such activities, which are prejudicial to the maintenance of public order, the detaining authority passed the impugned order declaring the detenu as an "immoral traffic offender", detained and kept in custody at the Central Prison, Chennai. The said order is under challenge in this petition.

2. Heard Mr. R. Ravichandran, learned counsel for the petitioner and Mr. Abudukumar Rajarathinam, learned Government Advocate for respondents.

3. At the foremost, learned counsel for the petitioner complained that the representation dated 25-9-2005 received by the detaining authority on 26-9-2005 has not been considered though the Government approved the order of detention only on 2-10-2005. According to the counsel, the said representation neither placed before the Advisory Board nor the Government, hence the ultimate order passed by the detaining authority is liable to be set aside. Learned Government Advocate by placing the entire records, contended that all the 6 representations submitted by the detenu/his relatives were placed before the Advisory Board as well as the Government and all of them were duly considered and rejected. He also contended that even the predetention representation dated 15-9-2005 was duly considered. We verified the records. It discloses that the pre-detention representation dated 15-9-2005 was considered and six representations made by the detenu and his relatives were duly placed before the Advisory Board as well as before the Government. All those representations were duly considered and rejected. Even though it is incumbent on the part of the detaining authority/Government to consider all the representations, in view of the fact that totally 7 representations have been made and were duly considered by the detaining authority/Government, in the absence of information that in the representation dated 25-9-2005 the detenu has made new points, merely because the same was not considered by the Government, the detention order cannot be faulted with. We are satisfied that since the seven earlier representations of the detenu were duly considered, the detenu was in no way prejudiced; accordingly we reject the said contention.

4. Learned counsel for the petitioner further submitted that inasmuch as the first

adverse case relates to a graver offence, namely, Section 22 of N.D.P.S. Act and the ground case relates to offences under I.T.P. Act and Section 366 I.P.C., the detaining authority ought to have considered the graver offence for imminent possibility of coming out of bail. It is true that though the first adverse case is said to have taken place on 7-4-2004, the detenu was charged u/s 4(1), 5(1)(a), 6(1), 7(1)(b), 8(a) of ITP Act and he was also charged u/s 22 of NDPS Act. As rightly pointed out, the punishment under NDPS Act depends upon the quantity of the material and in the absence of those details, it cannot be claimed that the offence in the first adverse case is graver in nature than the offences in the ground case. On the other hand, as rightly pointed out by the learned Government Advocate, the offence u/s 366 IPC is also graver in nature liable for imprisonment for 7 years and fine. In such a circumstance, we are satisfied that the detaining authority is well within his powers in describing the detenu as an "immoral traffic offender" and detained him under Act 14 of 1982 based on the ground case; accordingly we reject the said contention also.

4. Learned counsel for the petitioner further submitted that there is no public order or disturbance warranting invocation of Act 14 of 1982. On going through the details/materials furnished in the grounds of detention, we are unable to accept the said contention. It is seen from the details of investigation, the detenu Anandaraj used to get young innocent and poor girls, namely Bhavani and Vijaya who were under poverty from the nearby Andhra State under the guise of getting employment, induced and forced them to indulge in prostitution business. The details would further show that they took out a house at No. 3/120, Krishna Nagar, 2nd Street, Madhanandhapuram, Porur, Chennai by keeping the procured young girls in the said premises with the care of one Rajamani @ Mallika to indulge in prostitution business and at times took them to different places in Chennai City in cars and compel them into prostitution and earn huge money with the help of his associates and living in the said earnings. Further, it is seen that during the course of investigation, one Mukunthan appeared before the Inspector of Police and lodged a petition against the said Anandaraj, wherein he has stated that the said Anandaraj and one Rajamani are doing prostitution in Chennai City at Vadapalani, Arcot Road near the Higher Secondary school and spoiling the lives of young youths. One Tmt. Malathy, in her petition has stated that Anandaraj is doing immoral traffic offences in Vadapalani area at Arcot Road and spoiling the career of innocent young boys and girls. She also stated that he never bothered about the society and he needed only money. It is stated that some of the public also wrote letters to the Inspector of Police, Anti Vice Squad to take stern action against the said Anandaraj, who spoil the young innocent boys thereby leading to the spreading of sexual diseases in an epidemic proposition. The paper book supplied to the detenu contains all the complaints and statements of various persons. On the basis of the above materials, the detaining authority, after finding that the detenu is habitually committing crimes and also acted in the manner prejudicial to the maintenance of public order, came to the conclusion that he is an immoral traffic offender, as contemplated in

Tamil Act 14 of 1982. He also satisfied that the said Anandaraj is not only spoiling the young innocent boys and poor girls but his activities are paving way for spreading sexual deceases in an epidemic proposition which will certainly affect the maintenance of public order and health. In the light of the materials and the ultimate satisfaction by the detaining authority, it cannot be contended that there is no public order warranting invocation of Act 14 of 1892 in the case of the detenu. We are satisfied that there is no merit in the said contention. The allegation that the present action is gross mis-use of power is also baseless and not supported by acceptable material.

5. In the light of the above discussion, we do not find any ground for interference; accordingly the petition fails and the same is dismissed.