



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.01.2015

CORAM:

THE HONOURABLE MR.JUSTICE A.SELVAM

and

THE HONOURABLE MR.JUSTICE T.MATHIVANAN

HABEAS CORPUS PETITION(MD)No.1059 of 2014

Velayutham,
S/o.Lakshmanan,
Gopalasamudram,
Ambasamudram Taluk,
Tirunelveli District.
(Now confined at Palayamkottai
Central Prison)

..Petitioner

Vs.

1.The Secretary to Government,
Home, Prohibition and Excise Department,
State of Tamil Nadu, Fort St. George,
Chennai - 600 009.

2.The District Magistrate and
District Collector,
Office of the District Magistrate
and District Collector,
Tirunelveli District.

3.The Superintendent of Prison,
Palayamkottai Central Prison,
Tirunelveli District.

4.The Inspector of Police,
Munneerpallam Police Station,
Tirunelveli District.

..Respondents

Prayer:- Habeas Corpus Petition is filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus praying to call for the entire records, connected with the detention order of the respondent No.2 in M.H.S.Confidential No.60/2014, dated 26.08.2014 and quash the same and direct the respondents to produce the detenu by name Velayutham, Son of Laskhmanan, aged about 24 years, now detained in Palayamkottai Central Prison before this Court and set him at liberty and pass such further or other orders.

For Petitioner : Mr.R.Alagumani
For Respondents : Mr.A.Ramar
Addl.Public Prosecutor

ORDER

(Order of the Court was made by A.SELVAM, J)

<https://hcservices.ecourts.gov.in/hcservices/>
Habeas Corpus Petition has been filed under Article 226 of the Constitution of India praying to call for records relating to detention order passed in M.H.S.Confidential No.60 of 2014, dated



26.08.2014 by the detaining authority, who has been arrayed as second respondent herein, against the detenu by name Velayutham, Son of Laskhmanan and quash the same and thereby set him at liberty forthwith.

2. The Inspector of Police, Munneerpallam Police Station as sponsoring authority has submitted an affidavit to the detaining authority wherein it is stated to the effect that the detenu has involved in the following adverse case:

Crime No.122 of 2014 on the file of Munneerpallam Police Station registered under Sections 147, 148, 341, 323 and 506(ii) of the Indian Penal Code.

3. Further it is stated in the affidavit that on 09.07.2014 one Bhagavathi Subramanian as complainant has lodged a complaint in Munneerpallam Police Station against the detenu and others and the same has been registered in Crime No.240 of 2014 under Sections 147, 148, 341 and 302 of the Indian Penal Code altered into Sections 147, 148, 120(b), 341 and 302 of the Indian Penal Code and ultimately requested the detaining authority to invoke Act 14 of 1982 against the detenu.

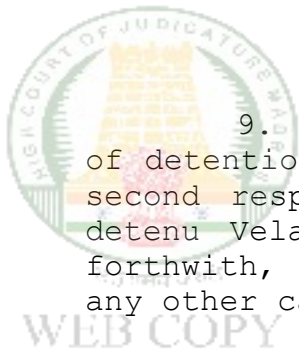
4. The detaining authority, after perusing the averments made in the affidavit and other connected documents, has derived subjective satisfaction to the effect that the detenu is a habitual offender and ultimately branded him as 'Goonda' by way of passing the impugned detention order and in order to quash the same, the present Habeas Corpus Petition has been filed by the detenu himself as petitioner.

5. On the side of the respondents, a detailed counter has been filed, wherein it has been contended to the effect that all the averments made in the petition are false and ultimately prayed to dismiss the same.

6. The learned counsel appearing for the petitioner has contended that on the side of the detenu, two representations have been given and the same have not been disposed of without delay and therefore, the detention order in question is liable to be quashed.

7. Per contra, the learned Additional Public Prosecutor has contended that all the representations submitted on the side of the detenu have been duly disposed of without delay and therefore, the detention order in question does not suffer from any infirmity.

8. On the side of the respondents, a proforma has been submitted wherein it has been clearly stated that with regard to first representation in between column Nos.7 to 9 six clear working days are available and in between column Nos.12 and 13 seven clear working days are available and likewise, with regard to second representation in between column Nos.7 to 9 six clear working days are available and in between column Nos.12 and 13 one clear working day is available and no explanation has been given on the side of the respondents with regard to huge delay and that itself 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 Habeas Corpus Petition is allowed and the order of detention dated 26.08.2014 in M.H.S.Confdl.No.60 of 2014 passed by the second respondent/detaining authority is quashed and consequently, the detenu Velayutham, Son of Laskhmanan is ordered to be set at liberty forthwith, unless he is required to be incarcerated in connection with any other case.

Sd/-

Assistant Registrar(T&P)

/True copy/

Sub Assistant Registrar

To

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
State of Tamil Nadu, Fort St. George,
Chennai - 600 009.
- 2.The District Magistrate and
District Collector,
Office of the District Magistrate
and District Collector,
Tirunelveli District.
- 3.The Superintendent of Prison,
Palayamkottai Central Prison,
Tirunelveli District.
- 4.The Inspector of Police,
Munneerpallam Police Station,
Tirunelveli District.
- 5.The Joint Secretary to Government,
Public (Law & Order), Government of Tamilnadu,
Fort St.George, Chennai-9.
- 6.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.R.Alagumani, Advocate in SR.4132

H.C.P (MD) No.1059 of 2014
29.01.2015

ps

pbk 03/02/2015 ::3p-8c: