



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.03.2015

CORAM:

THE HONOURABLE MR.JUSTICE A.SELVAM
and
THE HONOURABLE MR.JUSTICE T.MATHIVANAN

HABEAS CORPUS PETITION (MD) No.1104 of 2014

Vimala

.. Petitioner

Vs.

1.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai - 600 009.

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

.. 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 records pertaining to the impugned detention order passed by the second respondent made in his proceedings in P.D.No.68/2014, dated 07.09.2014 in detaining the detenu under Section 2(f) of the Tamil Nadu Act 14 of 1982 as a GOONDA and quash the same and direct the respondents to produce the detenu namely Bharathidasan @ Bharathi, Son of Soosairaj, aged about 25 years, who is detained in Central Prison, Tiruchirappalli, before this Court and set him at liberty and pass such further or other orders.

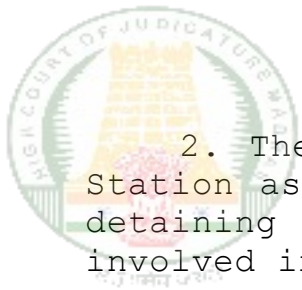
For Petitioner : Mr.K.M.Karunakaran

For Respondents : Mr.A.Ramar, Additional Public Prosecutor.

ORDER

(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 detention order passed in P.D.No.68/2014, dated 07.09.2014 by the detaining authority, who has been arrayed as second respondent herein against the detenu by name Bharathidasan @ Bharathi, Son of Soosairaj and quash the same and thereby set him at liberty forthwith.



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

WEB COPY

(i) Crime No.802 of 2008 Thanjavur East Police Station registered under Sections 341 and 323 of the Indian Penal Code altered into Sections 341 and 325 of the Indian Penal Code.

(ii) Crime No.592 of 2012 Thanjavur East Police Station registered under Section 399 of the Indian Penal Code.

(iii) Crime No.220 of 2013 Thanjavur East Police Station registered under Sections 294(b), 324 and 506(ii) of the Indian Penal Code altered into Sections 294(b), 325 and 506(ii) of the Indian Penal Code.

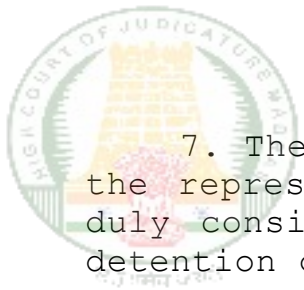
(iv) Crime No.693 of 2013 Thanjavur East Police Station registered under Sections 294(b), 323 and 506(ii) of the Indian Penal Code altered into Sections 294(b), 324 and 506(ii) of the Indian Penal Code.

3. Further it is stated in the affidavit that on 25.07.2014 one Gowri, Wife of Alwar as complainant has given a complaint in Thanjavur Medical College Police Station against the detenu and the same has been registered in Crime No.175 of 2014 under Sections 147, 148 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 considering 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 mother of the detenu 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 a representation has been submitted and the same has not been disposed of without delay and therefore the detention order in question is liable to be quashed.



7. The learned Additional Public Prosecutor has contended that the representation submitted on the side of the detenu has been duly considered and disposed of without delay and therefore the detention order in question does not require any interference.

8. On the side of the respondents, a proforma has been submitted wherein it has been clearly stated that in between Column Nos.7 to 9, seven clear working days are available and in between Column Nos.12 and 13, four clear working days are available and no explanation has been given on the side of the respondents with regard to huge delay in disposing of the representation submitted on the side of the detenu 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 detention order dated 07.09.2014 passed in P.D.No.68/2014 by the second respondent/detaining authority is quashed and consequently the respondents are directed to set the detenu viz., Bharathidasan @ Bharathi, Son of Soosairaj at liberty forthwith, unless he is required to be incarcerated in connection with any other case.

Sd/-

Assistant Registrar(Writs)

/True Copy/

Sub-Assistant Registrar

To

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.
 - 2.The District Collector and District Magistrate,
Thanjavur District, Thanjavur.
 - 3.The Superintendent, Central Prison, Tiruchirappalli.
[in duplicate to communicate to the detenu]
 - 4.The Joint Secretary to Government of Tamilnadu,
Public (Law & order) Department, Fort St.George, Chennai-9.
 - 5.The Inspector of Police, Thanjavur Medical Police Station,
Thanjavur.
 - 6.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.
- +1cc to Mr.K.M.Karunakaran, Advocate, in SR. No.12024.