



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.01.2015

CORAM:

THE HONOURABLE MR.JUSTICE A.SELVAM

and

THE HONOURABLE MR.JUSTICE T.MATHIVANAN

HABEAS CORPUS PETITION(MD)No.1134 of 2014

Rameshkumar

.. Petitioner

Vs.

1.The Secretary to the Government,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai - 600 009.

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

3.The Superintendent of Prison,
Madurai Central Prison,
Madurai District.

.. Respondents

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 second respondent in Cr.M.P.No.18/2014, dated 15.09.2014 and quash the same and direct the respondents to produce the detenu namely Rameshkumar, Son of Solaimalai, aged about 34 years, detained in Madurai Central Prison before this Court and set him at liberty forthwith 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)

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 Cr.M.P.No.18/2014(Goonda), dated 15.09.2014 by the detaining authority, who has been arrayed as second respondent herein against the detenu by name Rameshkumar, Son of Solaimalai and quash the same and thereby set him at liberty forthwith.



it is stated that the detenu has involved in the following adverse cases:

(i) Crime No.179 of 2009, Seithur Rural Police Station registered under Sections 454 and 380 of the Indian Penal Code.

(ii) Crime No.34 of 2011, Srivilliputhur Town Police Station registered under Sections 454 and 380 read with 75 of the Indian Penal Code.

(iii) Crime No.509 of 2011, Srivilliputhur Town Police Station registered under Sections 454 and 380 of the Indian Penal Code.

(iv) Crime No.501 of 2013, Srivilliputhur Town Police Station registered under Section 380 of the Indian Penal Code.

(v) Crime No.503 of 2013, Srivilliputhur Town Police Station registered under Section 392 of the Indian Penal Code.

3. Further it is stated in the affidavit that on 30.08.2014, one Murugesan has lodged a complaint against the detenu in Seithur Police Station and the same has been registered in Crime No.345 of 2014 under Section 392 of the Indian Penal Code and ultimately requested the detaining authority to invoke Act 14 of 1982 against the detenu.

4. The detaining authority viz., second respondent herein after perusing the averments made in the affidavit coupled with other connected documents has derived subjective satisfaction to the effect that the detenu is a habitual offender and thereby 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 submitted and the same have 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 representations submitted on the side of the detenu have been duly disposed of without delay and therefore the detention order in question does not call for any interference.

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, seven clear working days are available and in between Column Nos.12 and 13, five clear working days are available and with regard to second representation in between Column Nos.7 to 9, five clear working days are available and no explanation has been given on the side of the respondents with regard to such 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 detention order passed in Cr.M.P.No.18/2014(Goonda), dated 15.09.2014 by the second respondent/detaining authority is quashed and consequently the respondents are directed to set the detenu viz., Rameshkumar, Son of Solaimalai at liberty forthwith, unless he is required to be incarcerated in connection with any other case.

Sd/-

Assistant Registrar(CO)

/True copy/

Sub Assistant Registrar

smn

To

- 1.The Secretary to the Government,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai - 600 009.
- 2.The District Magistrate and
District Collector,
Office of the District Magistrate and
District Collector,
Virudhunagar District.
- 3.The Superintendent of Prison,
Madurai Central Prison,
Madurai District.(In duplicate to communicate the detenu)
- 4.The Joint secretary to Government,
Public (Law & Order)Fort st. George, Chennai-600 009.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr. R.Alagumani, Advocate SR No.3804

ORDER MADE IN
H.C.P (MD) No.1134 of 2014
23.01.2015

RG.29.01.2015 3P.8C.