



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.03.2015

CORAM:

THE HONOURABLE MR.JUSTICE A.SELVAM

and

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

HABEAS CORPUS PETITION (MD) No.1145 of 2014

P.Banumathy

.. Petitioner

Vs.

1.State Rep. By,
The District Collector and
District Magistrate,
Tirunelveli District,
Tirunelveli - 9.

2.The Principal Secretary to Government,
Home Prohibition and Excise (xiv)
Department,
Secretariat,
Chennai - 9.

.. 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 from the first respondent in M.H.S.Confdl.No.63 of 2014, dated 05.09.2014 by setting aside the said order of detention passed by the first respondent and setting the detenu Pattamuthu @ Sankar, aged 30 years, Son of Nalayirammuthu at liberty now detained in Central Prison, Palayamkottai and to pass such further or other orders.

For Petitioner : Mr.K.Prabhu

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

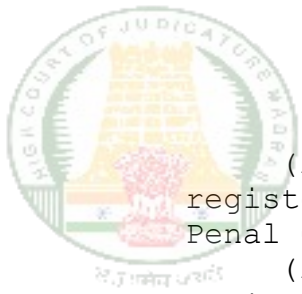
ORDER

(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 M.H.S.Confdl.No.63 of 2014, dated 05.09.2014 by the detaining authority, who has been arrayed as first respondent herein against the detenu by name Pattamuthu @ Sankar, Son of Nalayirammuthu and quash the same and thereby set him at liberty forthwith.

2. The Inspector of Police, Kallidaikurichi 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:

(i) Crime No.12 of 2014 Ambasamudram Police Station registered under Sections 341, 294(b) and 307 of the Indian Penal Code.



(ii) Crime No.131 of 2014 Ambasamudram Police Station registered under Sections 341, 294(b) and 307 of the Indian Penal Code.

(iii) Crime No.216 of 2014 Ambasamudram Police Station registered under Sections 147, 148, 341, 294(b) and 302 of the Indian Penal Code.

3. Further it is stated in the affidavit that on 14.07.2014 one Palani has given a complaint in Kallidaikurichi Police Station against the detenu and the same has been registered in Crime No.215 of 2014 under Sections 341, 294(b), 307 and 506(ii) 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 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 wife of the detenu as petitioner.

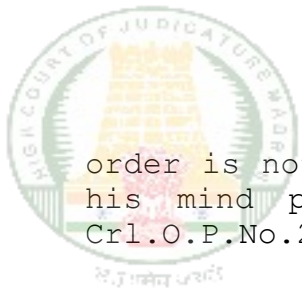
5. On the side of the respondents a detailed counter has been filed, wherein it has been contended to the effect that all the averments made in the petition are false and ultimately prayed to dismiss the same.

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 further the detaining authority, without considering the fact that alleged similar case is not having same set of facts, has erroneously relied upon the same for passing the impugned detention order and therefore, the impugned detention order passed by the detaining authority is liable to be quashed.

7. The learned Additional Public Prosecutor has contended that the detenu is a habitual offender and the detaining authority, after deriving subjective satisfaction to the effect that the detenu has involved in so many crimes, has rightly invoked Act 14 of 1982 by way of passing the impugned detention order and the same 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 in between Column Nos.7 to 9, four clear working days are available.

9. As rightly pointed out on the side of the petitioner that the detaining authority has relied upon the bail order passed in CrI.O.P.No.21280 of 2013 by this Court and in fact, this Court has perused the entire order and ultimately found that all the co-accused have already been granted bail and therefore, CrI.O.P.No.21280 of 2013 has been allowed. But in the present case, detenu has not filed any bail application either in ground case or in third adverse case. Under the said circumstances, the similar case particulars given in the detention



order is not at all similar and the detaining authority without applying his mind properly has erroneously relied upon the order passed in CrI.O.P.No.21280 of 2013.

10. It has already been pointed out that in between Column Nos.7 to 9, four clear working days are available and further, the detaining authority has not properly relied upon similar case particulars. Therefore, viewing from any angle, the detention order in question passed by the detaining authority is liable to be quashed.

11. In fine, this Habeas Corpus Petition is allowed and the detention order dated 05.09.2014 passed in M.H.S.Confdl.No.63 of 2014 by the first respondent/detaining authority is quashed and consequently the respondents are directed to set the detenu viz., Pattamuthu @ Sankar, Son of Nalayirammuthu 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

To

- 1.The District Collector and District Magistrate,
Tirunelveli District,
Tirunelveli - 9.
- 2.The Principal Secretary to Government,
Home Prohibition and Excise (xiv)
Department,
Secretariat,
Chennai - 9.
3. The Superintendent,Central Prison,
Palayamkottai(In duplicate to communicate the detenu)
- 4 The Joint Secretary to Govt.,
Public (Law & Order)
Fort St.George,
Chennai - 600 009.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.K.Prabhu,Advocate SR.No.10174

ORDER MADE IN
H.C.P (MD) No.1145 of 2014
03.03.2015

ps