



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.1150 of 2014

Selvandhas @ Selvan

.. Petitioner

Vs.

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

2.The District Collector and District Magistrate,
O/o.District Collector and District Magistrate,
Kanyakumari District at Nagercoil.

3.The Superintendent of Prison,
Palayamkottai Central Prison,
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 entire records connected with the detention order of the respondent No.2 in P.D.No.18 of 2014, dated 17.09.2014 and quash the same and direct the respondents to produce the detenu by name Selvandhas @ Selvan, Son of Paulraj, aged about 31 years, now detained in Palayamkottai 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,
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.18 of 2014, dated 17.09.2014 by the detaining authority, who has been arrayed as second respondent herein against the detenu by name Selvandhas @ Selvan, Son of Paulraj and quash the same and thereby set him at liberty forthwith.

2. The Inspector of Police, Marthandam Police Station as sponsoring
<https://hcservices.courts.gov.in/hcservices/>
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.171 of 2014 Marthandam Police Station registered under Sections 147, 148, 452, 323, 324, 307 and 506(ii) of the Indian Penal Code.

(ii) Crime No.623 of 2010 Marthandam Police Station registered under Sections 294(b), 353 and 379 of the Indian Penal Code and also under Section 21(1) of the Tamil Nadu Mines and Minerals (Development and Regulation) Act, 1957 and Section 36(A) of the Tamil Nadu Minor Minerals Concession Rule, 1959.

(iii) Crime No.711 of 2010 Marthandam Police Station registered under Section 147 of the Indian Penal Code read with Section 3(1) of TNPPDL Act, 1992 altered into Section 427 of the Indian Penal Code read with Section 3(1) of TNPPDL Act, 1992.

(iv) Crime No.808 of 2010 Marthandam Police Station registered under Sections 447, 294(b), 324 and 506(ii) of the Indian Penal Code.

(v) Crime No.988 of 2010 Marthandam Police Station registered under Sections 147, 148, 341, 120(b), 307 of the Indian Penal Code altered into Sections 120(b), 147, 148, 326 and 307 of the Indian Penal Code.

(vi) Crime No.547 of 2012 Marthandam Police Station registered under Sections 294(b), 323, 307, 506(ii) altered into Sections 294(b), 323 and 506(ii) of the Indian Penal Code.

(vii) Crime No.1230 of 2012 Marthandam Police Station registered under Sections 294(b), 307 and 506(ii) of the Indian Penal Code.

(viii) Crime No.770 of 2013 Marthandam Police Station registered under Sections 294(b), 323 and 506(ii) of the Indian Penal Code.

3. Further it is stated in the affidavit that on 16.08.2014 one Edwin Issac as complainant has given a complaint against the detenu in Marthandam Police Station and the same has been registered in Crime No.560 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 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 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 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, six clear working days are available and in between Column Nos.12 and 13, six clear working days are 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 detention order dated 17.09.2014 passed in P.D.No.18 of 2014 by the second respondent/detaining authority is quashed and consequently the respondents are directed to set the detenu viz., Selvandhas @ Selvan, Son of Paulraj at liberty forthwith, unless he is required to be incarcerated in connection with any other case.

Sd/
Assistant Registrar

/True copy/

sub Assistant Registrar(c.s)

To

- 1.The Secretary to the Government,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai - 600 009.
- 2.The District Collector and District Magistrate,
O/o.District Collector and District Magistrate,
Kanyakumari District at Nagercoil.
- 3.The Superintendent of Prison,
Palayamkottai Central Prison,
Tirunelveli District. (In duplicate to Communicate the detenue)
- 4 The Joint Secretary to the Government,
Public (Law & Order)
Fort St. George,
Chennai - 600 009.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to M/S.R.Alagaumani, Advocate in SR.No. 10315

TS/06.03.2015/3P-8C