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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.1158 of 2014

Alfonse Mary

.. Petitioner

Vs.

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

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

3.The Superintendent of Prison,
Trichy Central Prison,
Trichy 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 P.D.No.71/2014 dated 17.09.2014 and quash the same and direct the respondents to produce the detenu namely Alex @ Puratchiyalan, Son of Martin, aged about 32 years, detained in Trichy 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 P.D.No.71/2014 dated 17.09.2014 by the detaining authority, who has been arrayed as second respondent herein against the detenu by name Alex @ Puratchiyalan, Son of Martin and quash the same and thereby set him at liberty forthwith.



2.The Inspector of Police, Kumbakonam West 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.690 of 2011, Kumbakonam West Police Station registered under Sections 294(b) and 506(i) of the Indian Penal Code.

(ii)Crime No.179 of 2013, Kumbakonam West Police Station registered under Sections 147, 148, 363, 342 and 307 of the Indian Penal Code @ Sections 147, 363, 342, 323, 324 and 307 of the Indian Penal Code.

(iii)Crime No.263 of 2014, Kumbakonam West Police Station registered under Sections 147, 294(b), 323 and 307 of the Indian Penal Code.

3.Further it is stated in the affidavit that on 29.08.2014, one Ayyappan as complainant has given a complaint against the detenu to the Inspector of Police, Kumbakonam West Police Station and the same has been registered in Crime No.264 of 2014 under Sections 294(b), 392 of the Indian Penal Code and Section 3(1) of Tamilnadu Property (Prevention of Damage and Loss) Act, 1992 and ultimately requested the detaining authority to invoke Act 14 of 1982 against the detenu.

4.The detaining authority viz., second respondent herein 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 mother of the detenu as petitioner.

5.Despite of repeated adjournments, the respondents have not chosen to file counter. Under the said circumstances, this Habeas Corpus Petition is disposed of on merits on the basis of the representation made on the side of the petitioner.

6.The learned counsel appearing for the petitioner has contended that on the side of the detenu three representations dated 28.09.2014, 29.09.2014 and 29.09.2014 have been submitted to the concerned authorities and the same have not been disposed of and therefore the detention order in question is liable to be quashed.

7.As stated earlier, on the side of the respondents counter has not been filed.

8.Considering the aforesaid aspect, this Court is of the view that on the basis of the contention putforth on the side of the petitioner, 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 P.D.No.71/2014 dated 17.09.2014 by the second respondent/detaining authority is quashed and consequently the respondents



are directed to set the detenu viz., Alex @ Puratchiyalan, Son of Martin at liberty forthwith, unless he is required to be incarcerated in connection with any other case.

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Sd/
Assistant Registrar

/True copy/

sub Assistant Registrar(c.s)

To

- 1.The Secretary to the Government,
State of Tamilnadu,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai - 600 009.
- 2.The District Collector and
District Magistrate,
Office of the District Collector and
District Magistrate,
Thanjavur District.
- 3.The Superintendent of Prison,
Trichy Central Prison,
Trichy District.(In Duplicate to communicate to 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.Alagumani, Advocate in SR.No. 10354

TS/05.03.2015/3P-8C

ORDER MADE IN
H.C.P (MD) No.1158 of 2014

03.03.2015