



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.1179 of 2014

Kumar @ Killi Kumar

..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,
Dindigul District,
Dindigul.

3.The Superintendent of Prison,
Madurai Central Prison,
Madurai 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 Detention Order No.25 of 2014, dated 30.09.2014 and quash the same and direct the respondents to produce the detenu by name Kumar @ Killi Kumar, Son of Durairaj, aged about 38 years, now 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,
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 Detention Order No.25 of 2014, dated 30.09.2014 by the detaining authority, who has been arrayed as second respondent herein against the detenu by name Kumar @ Killi Kumar, Son of Durairaj and quash the same and thereby set him at liberty forthwith.

2. The Inspector of Police, Dindigul Town 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.410 of 2013 Dindigul Town South Police Station registered under Section 294(b) of the Indian Penal Code and also under Section 3(1) of TNPPDL Act.



(ii) Crime No.278 of 2014 Dindigul Town West Police Station registered under Sections 147, 148, 342 and 302 of the Indian Penal Code.

3. Further it is stated in the affidavit that on 19.08.2014 one R.Sundaram as complainant has given a complaint to the Inspector of Police, Dindigul Town West Police Station and the same has been registered in Crime No.280 of 2014 under Sections 392 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/detenu has contended that on the side of the petitioner/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 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 with regard to first representation in between Column Nos.7 to 9, four clear working days are available and in between Column Nos.12 and 13, six clear working days are available and with regard to second representation in between Column Nos.7 to 9, four clear working days are available and in between Column Nos.12 and 13, three 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 30.09.2014 passed in Detention Order No.25 of 2014 by the second respondent/detaining authority is quashed and consequently the respondents are directed to set the detenu viz., Kumar @ Killi Kumar, Son of Durairaj at liberty forthwith, unless he is required to be incarcerated in connection with any other case.

Sd/-

Assistant Registrar(CO)



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,
Dindigul District,
Dindigul.
- 3.The Superintendent of Prison,
Madurai Central Prison,
Madurai District.
(in duplicate to communicate to the detenue)
- 4.The Joint Secretary to Government,
Public (Law & Order), Fort St.George,
Chennai-9.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1CC to M/s.R.Alagumani, Advocate in SR.10316

H.C.P (MD) No.1179 of 2014
03.03.2015

ps

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