



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 13.01.2015

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THE HONOURABLE MR.JUSTICE A.SELVAM
and
THE HONOURABLE MS.JUSTICE V.M.VELUMANI

H.C.P. (MD) No.1184 of 2014

A.Rajalakshmi

.. Petitioner

Vs.

- 1.State rep.by,
The Principal Secretary to Government,
Home, Prohibition & Excise Department(XVI),
State of Tamilnadu,
Secretariat, Chennai - 9.
- 2.The District Magistrate & District Collector,
O/o.District Magistrate & District Collector,
Pudukottai District, Pudukottai.
- 3.The Inspector of Police,
Thirugokarnam Police Station,
Pudukottai District.

.. Respondents

Habeas Corpus Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus to call for entire records connected with the detention order dated 27.09.2014 passed in P.D.O.No.13 of 2014 by the second respondent and quash the same and direct the respondents to produce the body and person of the detenu namely Aruna @ Arunachalam S/o.Renganathan aged about 39 years now detained in Central Prison, Tiruchirapalli before this Court and set him at liberty.

For Petitioner : Mr.S.M.A.Jinnah

For Respondents : Mr.C.Mayil Vahana Rajendran
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 the detention order passed in P.D.O.No.13 of 2014 dated 27.09.2014 by the detaining authority who has been arrayed as second respondent herein against the detenu by name Aruna @ Arunachalam and quash the same and thereby set him at liberty forthwith.



2. The Inspector of Police, Thirugokarnam 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.520 of 2010 - Pudukottai Town Police Station, registered under Section 379 of the Indian Penal Code.
- (ii) Crime No.111 of 2011 - Thirugokarnam Police Station, registered under Section 397 of the Indian Penal Code.
- (iii) Crime No.223 of 2013 - Viralimalai Police Station, registered under Sections 457, 511 altered into Sections 457, 380 r/w 114 and 109 of the Indian Penal Code.
- (iv) Crime No.299 of 2013 - Kallal Police Station, registered under Section 379 of the Indian Penal Code.
- (v) Crime No.135 of 2014 - Pudukottai Town Police Station, registered under Sections 302, 294(b), 324, 506(ii) of the Indian Penal Code altered into Sections 120(b), 147, 148, 302, 294(b), 324 and 506(ii) of the Indian Penal Code.

Further it is stated in the affidavit that on 09.04.2013 one Manickam has lodged a complaint to the Inspector of Police, Thirugokarnam Police Station and the same has been registered in Crime No.117 of 2013 against the detenu under Sections 457 and 380 of the Indian Penal Code and ultimately requested the detaining authority to invoke Act 14 of 1982 against the detenu.

3. The detaining authority after perusing the averments made in the affidavit and other connected documents has derived subjective satisfaction to the effect that the detenu is a habitual offender and ultimately 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.

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

5. 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 impugned detention order is liable to be quashed.

6. 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 require any interference.

7. 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 and 9, 13 clear working days are available and in between column Nos.12 and 13, one clear working day is available and even with regard to second representation, some delay is there and the same has not been explained on the side of the respondents

and that itself would affect 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.

8. In fine, this Habeas Corpus Petition is allowed and the detention order dated 27.09.2014 passed in P.D.O.No.13 of 2014 by the detaining authority/second respondent herein is quashed and the detenu by name Aruna @ Arunachalam is ordered to be set at liberty forthwith, unless he is required to be incarcerated in any other case.

Sd/-

Assistant Registrar(CO)

/True copy/

Sub Assistant Registrar

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To

- 1.The Principal Secretary to Government,
Home, Prohibition & Excise Department(XVI),
State of Tamilnadu,
Secretariat, Chennai - 9.
- 2.The District Magistrate & District Collector,
O/o.District Magistrate & District Collector,
Pudukottai District, Pudukottai.
- 3.The Inspector of Police,
Thirugokarnam Police Station,
Pudukottai District.
- 4.The Superintendent, Central Prison, Trichy.
(In duplicate for detenue)
- 5.The Joint Secretary to Government
Public (Law & Order) Fort st., George, Chennai-9.
- 6.The Addl.Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr. S.M.A.JINNAH, ADVOCATE SR NO.1711

H.C.P. (MD) No.1184 of 2014
13.01.2015

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