



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 27.02.2015
CORAM:

THE HONOURABLE MR.JUSTICE A.SELVAM
and
THE HONOURABLE MR.JUSTICE T.MATHIVANAN

HABEAS CORPUS PETITION(MD)No.1188 of 2014

Kozhunthai .. Petitioner

Vs.

- 1.The State of Tamil Nadu,
Rep. By the Secretary to the Government,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai - 9.
- 2.The District Collector and District Magistrate,
O/o.District Collector and District Magistrate,
Karur District,
Karur.
- 3.The Superintendent of Central Prison,
Central Prison,
Tiruchirappalli. .. 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 in detention order passed in Cr.M.P.No.08 of 2014, dated 06.10.2014 on the file of the second respondent herein and set aside the same as illegal and direct the respondents to produce the body or person of the petitioner's son namely Siva alias Sivakumar, Son of Karuppiyah, aged 32 years, who is detained in Central Prison, Tiruchirappalli before this Court and set him at liberty.

For Petitioner : Mr.K.A.S.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 Cr.M.P.No.08 of 2014, dated 06.10.2014 by the detaining authority, who has been arrayed as second respondent herein against the detenu by name Siva alias Sivakumar, Son of Karuppiyah and quash the same and thereby set him at liberty forthwith.



2. The Inspector of Police, Kulithalai 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.19 of 2014 Palaviduthi Police Station registered under Section 392 of the Indian Penal Code.
- (ii) Crime No.90 of 2014 Lalapet Police Station registered under Sections 342 and 394 of the Indian Penal Code.
- (iii) Crime No.224 of 2014 Kulithalai Police Station registered under Section 379 of the Indian Penal Code.
- (iv) Crime No.101 of 2014 Lalapet Police Station registered under Section 394 of the Indian Penal Code.

3. Further it is stated in the affidavit that on 18.08.2014 one Rukmani, Wife of Natarajan has given a complaint in Kulithalai Police Station against the detenu and the same has been registered in Crime No.332 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 perusing 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. 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, four clear working days are available and in between Column Nos.12 and 13, one clear working day is available and no explanation has been given on the side of the respondents with regard to such 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 06.10.2014 passed in Cr.M.P.No.08 of 2014 by the second respondent/detaining authority is quashed and consequently the respondents are directed to set the detenu viz., Siva alias Sivakumar, Son of Karuppiyah at liberty forthwith, unless he is required to be incarcerated in connection with any other case.

Sd/-

Assistant Registrar



To

- 1.The Secretary to the Government,
State of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai - 9.
 - 2.The District Collector and District Magistrate,
O/o.District Collector and District Magistrate,
Karur District Karur.
 - 3.The Superintendent of Central Prison,
Central Prison,
Tiruchirappalli.
 - 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
 - 5.The Joint Secretary to Government Public(Law & Order)
Fort st.George, Chennai-9
- +1 CC TO M/S.K.A.S.PRABHU, ADVOCATE SR.NO.9565

ORDER MADE IN
H.C.P (MD) No.1188 of 2014
27.02.2015

PS
NA/04/03/2015/P3/7C