



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.01.2015

CORAM:

THE HONOURABLE MR.JUSTICE A.SELVAM

and

THE HONOURABLE MR.JUSTICE T.MATHIVANAN

HABEAS CORPUS PETITION(MD)No.1206 of 2014

S.Pulavendran

..Petitioner

Vs.

1.The State of Tamil Nadu,
Rep. by its Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.

2.The District Collector and
District Magistrate,
Tirunelveli District.

3.The Superintendent of Central 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 the entire records connected with the detention order of the respondent No.2 in M.H.S.Confdl.No.66 of 2014, dated 09.09.2014 and quash the detention order as illegal and produce the body of the petitioner's son, namely, Manikandan, now confined at Central Prison, Palayamkottai before this Court and set him at liberty and pass such further or other orders.

For Petitioner : Mr.R.Rajesh Kumar

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 M.H.S.Confdl.No.66 of 2014, dated 09.09.2014 by the detaining authority, who has been arrayed as second respondent herein, against the detenu by name Manikandan Son of Pulavendran and quash the same and thereby set him at liberty forthwith.

2. The Inspector of Police, Pavoorchatram Police Station as sponsoring authority has submitted an affidavit to the detaining authority wherein it is stated to the effect that the detenu has involved in the following adverse cases:

(i) Crime No.127 of 2014 registered under Sections 147, 148, 294(b), 307 and 506(ii) of the Indian Penal Code and also under Section 3 of the Tamil Nadu Public Property (Prevention of Damage and Loss) Act on the file of Mukkudal Police Station.



(ii) Crime No.130 of 2014 registered under Section 437 of the Indian Penal Code and also under Section 3(1) of the Tamil Nadu Public Property (Prevention of Damage and Loss) Act altered into Sections 147, 148, 294(b), 452, 436 and 506(ii) of the Indian Penal Code and 3(1) of the Tamil Nadu Public Property (Prevention of Damage and Loss) Act read with Section 3(2)(VA) of the Schedule Caste and Schedule Tribe (Prevention of Atrocities) Act, 1989 on the file of Pappakudi Police Station.

(iii) Crime No.131 of 2014 registered under Section 435 of the Indian Penal Code altered into Sections 147 and 435 of the Indian Penal Code read with Section 3(2)(VA) of the Schedule Caste and Schedule Tribe (Prevention of Atrocities Act Amendment Ordinance) Act, 2014 on the file of Pappakudi Police Station.

(iv) Crime No.136 of 2014 registered under Section 435 of the Indian Penal Code altered into Sections 147, 294(b), 435 and 506(ii) of the Indian Penal Code read with Section 3(2)(VA) of the Schedule Caste and Schedule Tribe (Prevention of Atrocities Amendment Ordinance) Act, 2014 on the file of Pappakudi Police Station.

(v) Crime No.145 of 2014 registered under Section 302 of the Indian Penal Code altered into Sections 341, 294(b), 302 and 506(ii) of the Indian Penal Code read with Section 3(2)(V) of the Schedule Caste and Schedule Tribe Prevention of Atrocities Act on the file of Pappakudi Police Station.

3. Further it is stated in the affidavit that on 28.07.2014 one Murugan has lodged a complaint in Pavoorchatram Police Station against the detenu and the same has been registered in Crime No.275 of 2014 under Sections 294(b), 387 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 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 father 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 given and the same has not been disposed of 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 disposed of without delay and therefore, the detention order in question is liable to be quashed.



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 seven clear working days and in between column Nos.12 and 13 five clear working days are available and no explanation has been given on the side of the respondents with regard to inordinate delay in disposing of the representation 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 order of detention dated 09.09.2014 in M.H.S.Confdl.No.66 of 2014 passed by the second respondent/detaining authority is quashed and consequently, the detenu Manikandan, Son of S.Pulavendran is ordered to be set at liberty forthwith, unless he is required to be incarcerated in connection with any other case.

Sd/-

Assistant Registrar (Writs)

/True copy/

Sub Assistant Registrar

To

1. THE SECRETARY TO GOVT.
HOME, PROHIBITION AND EXCISE DEPARTMENT, SECREATARIAT, CHENNAI-9
2. THE DISTRICT COLLECTOR AND DISTRICT MAGISTRATE, COLLECTORATE,
TIRUNELVELI DT.
3. THE SUPERINTENDENT OF CENTRAL PRISON, PALAYAMKOTTAI CENTRAL PRISON,
TIRUNELVELI DT. (IN DUPLICATE FOR COMMUNICATE TO DETENUE)
4. THE JOINT SECRETARY TO GOVT., PUBLIC (LAW & ORDER) FORT ST.GEORGE,
CHENNAI-9.
5. THE ADDITIONAL PUBLIC PROSECUTOR, MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1cc to Mr.R.Rajesh Kumar, Advocate in SR.3547

H.C.P(MD)No.1206 of 2014
27.01.2015

ps

pbk 29/01/215 ::3p-7c: