



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 17.02.2015
CORAM:

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

HABEAS CORPUS PETITION(MD)No.1215 of 2014

Kathir Vel,
S/o.Valivittan,
14, Kumaran Street,
Kamarajapuram,
Madurai - 9.

.. Petitioner

Vs.

State rep. By

1.The Secretary to the Government,
Government of Tamil Nadu,
Home, Prohibition and Excise IX,
Secretariat, George Fort,
Chennai - 600 009.

2.The Commissioner of Police,
Madurai City,
Madurai.

.. 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 records on the file of the second respondent in Detention Order No.49/BDFGISSV/2014 and set aside the order of detention passed therein, dated 08.09.2014, direct the respondents to produce the detenu by name Balamurugan, aged 20 years, Son of Kathirvel before this Court, now detained at Borstal School, Pudukkottai and set him at liberty and pass such further or other orders.

For Petitioner : Mr.J.William Christopher

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 No.49/BDFGISSV/2014, dated 08.09.2014 by the detaining authority, who has been arrayed as second respondent herein against the detenu by name Balamurugan, Son of Kathirvel and quash the same and thereby set him at liberty forthwith.



2. The Inspector of Police, D.1 Tallakulam 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.1273 of 2013 B3 Teppakulam Police Station registered under Sections 147, 148, 341, 342, 324, 307, 302 read with 109, 149, 120(b) of the Indian Penal Code and also under Sections 3(a), 4(a), 4(b) and 6 of Explosive Substances Act, 1908 and also under Section 4 of Tamil Nadu Properties (Damage and Loss) Prevention Act, 1992.

(ii) Crime No.822 of 2014 D.1 Tallakulam Police Station registered under Section 399 of the Indian Penal Code and also under Section 25 (i) (A) of Arms Act.

3. Further it is stated in the affidavit that on 23.08.2014 one Suresh, a resident of Y.Othakadai has given a complaint against the detenu and others in D.1 Tallakulam Police Station and the same has been registered in Crime No.863 of 2014 under Sections 392 read with 397 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 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 four representations have been given and the same are 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 all 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 is not liable to be quashed.

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, five clear working days are available and with regard to second representation in between Column Nos.7 to 9, three clear working days are available and in between Column Nos.12 and 13, four clear working days are available and with regard to third representation in between Column Nos.7 to 9, twenty three clear working days are available and with regard to fourth representation in between Column Nos.7 to 9, four clear working days are available and in between Column Nos.12 and 13, four 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 08.09.2014 passed in No.49/BDFGISSV/2014 by the second respondent/detaining authority is quashed and consequently the respondents are directed to set the detenu viz., Balamurugan, Son of Kathirvel at liberty forthwith, unless he is required to be incarcerated in connection with any other case.

Sd/-
Assistant Registrar(CO)

\\True copy\\

Sub Assistant Registrar

To

1.The Secretary to the Government,
Government of Tamil Nadu,
Home, Prohibition and Excise IX,
Secretariat, George Fort, Chennai - 600 009.

2.The Commissioner of Police,
Madurai City, Madurai.

3.The Superintendent, Borstal School, Pudukkottai

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC TO M/S.WILLIAM CHRISTOPHER, ADVOCATE SR.NO.7604

ORDER MADE IN
H.C.P (MD) No.1215 of 2014
17.02.2015

PS

NA/18/02/2015/P3/6C