



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.03.2015

CORAM:

THE HONOURABLE MR.JUSTICE A.SELVAM

and

THE HONOURABLE MR.JUSTICE T.MATHIVANAN

HABEAS CORPUS PETITION (MD) No.1270 of 2014

T.Selvi

.. Petitioner

Vs.

1.State of Tamil Nadu,
Rep. By the Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai - 9.

2.The District Collector and
District Magistrate,
O/o.The District Collector and
District Magistrate,
Nagapattinam District,
Nagapattinam.

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 C.O.C.No.52/2014, dated 25.10.2014 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 husband, namely Ammapettaian @ Tamilarasan, Son of Subramaniyan, aged 47 years, who is detained in Central Prison, Tiruchirappalli before this Court and set him at liberty forthwith and pass such further or other orders.

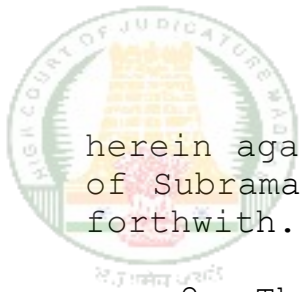
For Petitioner : Mr.K.A.S.Prabhu

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 C.O.C.No.52/2014, dated 25.10.2014 by the detaining authority, who has been arrayed as second respondent



herein against the detenu by name Ammapettaiyan @ Tamilarasan, Son of Subramaniyan and quash the same and thereby set him at liberty forthwith.

2. The Inspector of Police, Pudupattinam 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.130 of 2014 Puthupattinam Police Station registered under Section 4(1)(aaa) of TNP Act, 1937.

(ii) Crime No.366 of 2014 Puthupattinam Police Station registered under Section 4(1)(aaa) of TNP Act, 1937.

(iii) Crime No.413 of 2014 Sirkazhi P.E.W registered under Section 4(1)(aaa) of TNP Act, 1937.

3. Further it is stated in the affidavit that on 11.10.2014, the detenu has been found in possession of illicit poisonous arrack and consequently, a case has been registered in Crime No.370 of 2014 under Sections 4(1)(i), 4(1)(aaa) read with 4(1-A) of TNP Act, 1937 and ultimately requested the detaining authority to invoke Act 14 of 1982 against the detenu.

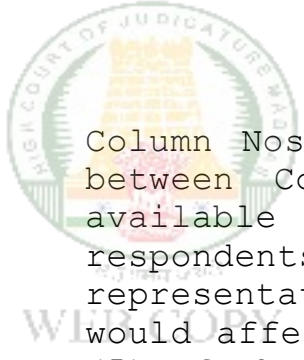
4. The detaining authority, after considering the averments made in the affidavit and other connected documents, has derived subjective satisfaction to the effect that the detenu is a 'Boot-Legger' and ultimately branded him as 'Boot-Legger' by way of passing the impugned detention order and in order to quash the same, the present Habeas Corpus Petition has been filed by the wife of the detenu as petitioner.

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 need not 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, nine clear working days are available and in between Column Nos.12 and 13, eleven clear working days are available and no explanation has been given on the side of the respondents with regard to huge delay in disposing of the representation submitted on the side of the detenu 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 25.10.2014 passed in C.O.C.No.52/2014 by the second respondent/detaining authority is quashed and consequently the respondents are directed to set the detenu viz., Ammapettaian @ Tamlarasan, Son of Subramaniyan 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 Government, State of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St. George, Chennai - 9.
 - 2.The Joint Secretary to Government of Tamilnadu,
Public (Law & order) Department, Fort St.George, Chennai-9.
 - 3.The District Collector and District Magistrate,
O/o.The District Collector and District Magistrate,
Nagapattinam District, Nagapattinam.
 - 4.The Director General of Police, Chennai.
 - 5.The Superintendent of Central Prison,
Central Prison, Tiruchirappalli.
[in duplicate to communicate to the detenu]
 - 6.The Inspector of Police, Puthupattinam Police Station,
Nagapattinam District.
 - 7.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.
- +1cc to Mr.K.A.S.Prabhu, Advocate, in SR. No.11968.

ps

msm 13.03.2015 p3/10c

ORDER MADE IN

H.C.P (MD) No.1270 of 2014

12.03.2015