



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.1271 of 2014

T.Esakkiyammal .. Petitioner

Vs.

1.The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai - 600 009.

2.The District Collector and
District Magistrate,
Office of the District Collector and
District Magistrate,
Thoothukudi District.

3.The Superintendent of 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 entire records connected with the detention order of the second respondent in H.S.(M)Confdl.No.29/2014, dated 28.10.2014 and quash the same and direct the respondents to produce the body and person of her husband, by name Thankaraj, Son of Duraisamy Thevar, aged 45 years detained in Palayamkottai Central Prison before this Court and set him at liberty forthwith and pass such further or other orders.

For Petitioner : Mr.R.Alagumani

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 H.S.(M)Confdl.No.29/2014, dated 28.10.2014 by the detaining authority, who has been arrayed as second respondent herein against the detenu by name Thankaraj, Son of Duraisamy Thevar and quash the same and thereby set him at liberty forthwith.



2. The Inspector of Police, Murappanadu 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.15 of 2011 Murappanadu Police Station registered under Sections 379 of the Indian Penal Code read with Section 21(1) of Tamil Nadu Mines and Minerals Regulation and Development Act, 1957.

(ii) Crime No.169 of 2011 Murappanadu Police Station registered under Sections 379 of the Indian Penal Code read with Section 21(1) read with Section 4(1)(a) of Tamil Nadu Mines and Minerals Regulation and Development Act, 1957.

(iii) Crime No.101 of 2012 Murappanadu Police Station registered under Sections 379 of the Indian Penal Code read with Section 21(1) of Tamil Nadu Mines and Minerals Regulation and Development Act, 1957.

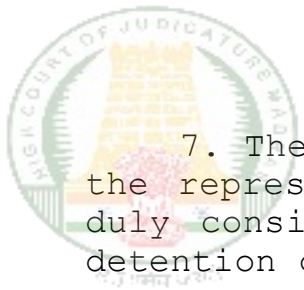
(iv) Crime No.220 of 2012 Murappanadu Police Station registered under Sections 379 of the Indian Penal Code read with Section 21(1) of Tamil Nadu Mines and Minerals Regulation and Development Act, 1957.

3. Further it is stated in the affidavit that on 15.10.2014, the detenu has been making arrangements to load sand illegally by using a TATA 407 vehicle and consequently, a case has been registered in Crime No.232 of 2014 under Sections 379 of the Indian Penal Code read with Section 21(1) of Tamil Nadu Mines and Minerals Regulation and Development Act, 1957 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 'habitual sand offender' and ultimately branded him under the same caption 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 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, eight clear working days are available and in between Column Nos.12 and 13, eight 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 28.10.2014 passed in H.S.(M) Confdl.No.29/2014 by the second respondent/detaining authority is quashed and consequently the respondents are directed to set the detenu viz., Thankaraj, Son of Duraisamy Thevar at liberty forthwith, unless he is required to be incarcerated in connection with any other case.

Sd/-

Assistant Registrar(C.O.,)

/True Copy/

Sub-Assistant Registrar

To

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George, Chennai - 600 009.
 - 2.The District Collector and District Magistrate,
Office of the District Collector and District Magistrate,
Thoothukudi District.
 - 3.The Superintendent of Prison, Palayamkottai Central Prison,
Tirunelveli District.[In duplicate to communicate the detenu]
 - 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.
 - 5.The Joint Secretary to Government of Tamilnadu,
Public (Law & order) Department, Fort St.George, Chennai-9.
- +1cc to Mr.R.Alagumani, Advocate, in SR. No.12461/2015.