



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 25.03.2015
CORAM:

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

HABEAS CORPUS PETITION(MD)No.1305 of 2014

Ganesan

.. Petitioner

Vs.

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

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

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 respondent No.2 in H.S. (M) Confdl.No.25/2014, dated 28.10.2014 and quash the same and direct the respondents to produce the body or person of the detenu by name Ganesan, Son of Sudalai, aged 27 years, now 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.25/2014, dated 28.10.2014 by the detaining authority, who has been arrayed as second respondent herein against the detenu by name Ganesan, Son of Sudalai and quash the same and thereby set him at liberty forthwith.



2. The Inspector of Police, Eral 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.263 of 2010 Eral Police Station registered under Section 379 of the Indian Penal Code and Section 21 of Tamil Nadu Mines and Minerals Act.

(ii) Crime No.276 of 2010 Eral Police Station registered under Sections 341, 294(b), 323 and 506(ii) of the Indian Penal Code.

(iii) Crime No.05 of 2011 Eral Police Station registered under Sections 294(b), 323 and 506(ii) of the Indian Penal Code.

(iv) Crime No.283 of 2013 Eral Police Station registered under Sections 341, 294(b), 324 and 506(ii) of the Indian Penal Code.

(v) Crime No.240 of 2013 Eral Police Station registered under Sections 341, 294(b), 384, 307 and 506(ii) of the Indian Penal Code.

(vi) Crime No.362 of 2013 Eral Police Station registered under Sections 294(b) and 506(ii) of the Indian Penal Code.

(vii) Crime No.364 of 2013 Eral Police Station registered under Sections 380 altered into Section 379 of the Indian Penal Code.

3. Further it is stated in the affidavit that on 08.10.2014 one Sathish as complainant has given a complaint against the detenu to the Inspector of Police, Eral Police Station and the same has been registered in Crime No.360 of 2014 under Sections 341, 294(b), 387, 307 and 506(ii) of the Indian Penal Code and ultimately requested the detaining authority to invoke Act 14 of 1982 against the detenu.

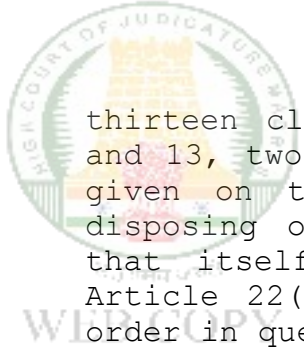
4. The detaining authority, after considering the averments made in the affidavit and other connected documents, has derived subjective satisfaction to the effect that the detenu is a habitual offender and ultimately branded him as 'Goonda' by way of passing the impugned detention order and in order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



thirteen clear working days are available and in between Column Nos.12 and 13, two 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 by the petitioner/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 passed in H.S. (M) Confdl.No.25/2014, dated 28.10.2014 by the second respondent/detaining authority is quashed and consequently the respondents are directed to set the detenu viz., Ganesan, Son of Sudalai 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(c.s)

To

- 1.The Secretary to Government, Home, Prohibition and Excise Department,
State of Tamil Nadu, Fort St. George, Chennai - 600 009.
- 2.The District Collector and District Magistrate,
Office of the District Collector and District Magistrate,
Thoothukudi.
- 3.The Superintendent of Prison, Palayamkottai Central Prison,
Tirunelveli District.(in duplicate for communicate to the detenu)
- 4.The Joint Secretary to Govt. Public(Law & Order) Department
Fort.St.George, Chennai-9
- 5.The Inspector of Police, Eral Police Station,
- 6.The Additional Public Prosecutor, Madurai Bench of Madras High Court,
Madurai.

+1cc to MR.R.ALAGUMANI, ADVOCATE SR.NO.15099

ORDER MADE IN
H.C.P (MD) No.1305 of 2014
25.03.2015

PS
NA/26/03/2015/P3/8C