



WEB COPY

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.03.2015

CORAM:

THE HONOURABLE MR.JUSTICE A.SELVAM
and

THE HONOURABLE MR.JUSTICE T.MATHIVANAN

HABEAS CORPUS PETITION(MD)No.1318 of 2014

Sekar

.. Petitioner

Vs.

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

2.The District Magistrate and
District Collector,
Office of the District Magistrate and
District Collector,
Tirunelveli 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 respondent No.2 in M.H.S.Confdl No.79/2014, dated 23.10.2014 and quash the same and direct the respondents to produce the detenu namely Sekar, Son of Shanmugavel, aged 27 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 M.H.S.Confdl No.79/2014, dated 23.10.2014 by the detaining authority, who has been arrayed as second respondent herein against the detenu by name Sekar, Son of Shanmugavel and quash the same and thereby set him at liberty forthwith.



2. The Inspector of Police, Shenkottai 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.176 of 2014 Courtallam Police Station registered under Sections 341, 294(b), 323, 325 and 506(i) of the Indian Penal Code.

(ii) Crime No.219 of 2014 Tenkasi Police Station registered under Sections 341, 294(b), 307 and 506(ii) of the Indian Penal Code altered into Sections 341, 294(b), 307, 506(ii) read with Section 34 of the Indian Penal Code.

(iii) Crime No.285 of 2014 Tenkasi Police Station registered under Sections 341, 294(b), 307 and 506(ii) of the Indian Penal Code altered into Sections 341, 294(b), 307, 506(ii) read with Section 34 of the Indian Penal Code.

3. Further it is stated in the affidavit that on 25.09.2014, the complainants, namely Ramar and Moorthy have given a complaint in Shenkottai Police Station against the detenu and the same has been registered in Crime No.209 of 2014 under Sections 341, 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.

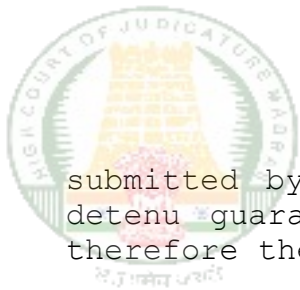
4. The detaining authority, after considering the averments made in the affidavit and other connected documents, has derived subjective satisfaction to the effect that the detenu is a habitual offender and ultimately branded him as 'Goonda' by way of passing the impugned detention order and in order to revoke 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 has contended that on the side of the petitioner/detenu three representations have been submitted and the same are not 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 by the petitioner/detenu are 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 with regard to first representation in between Column Nos.7 to 9, eight clear working days are available and in between Column Nos.12 and 13, twelve clear working days are available. With regard to second representation in between Column Nos.12 and 13, five clear working days are available and with regard to third representation in between Column Nos.7 to 9, five 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 in disposing of the representations



submitted by 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 passed in M.H.S.Confdl.No.79/2014, dated 23.10.2014 by the second respondent/detaining authority is quashed and consequently the respondents are directed to set the detenu viz., Sekar, Son of Shanmugavel at liberty forthwith, unless he is required to be incarcerated in connection with any other case.

Sd/
Assistant Registrar

/True copy/

sub Assistant Registrar(c.s)

To

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

+1cc to M/S. R.Alagumani, Advocate in SR.No. 16072

TS/01.04.2015/3P-9C

ORDER MADE IN
H.C.P (MD) No.1318 of 2014

31.03.2015