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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.02.2015

CORAM:

THE HONOURABLE MR.JUSTICE A.SELVAM

and

THE HONOURABLE MR.JUSTICE T.MATHIVANAN

HABEAS CORPUS PETITION (MD) No.1323 of 2014

Panchavarnam

.. Petitioner

Vs.

1.The 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,
Tiruchirappalli District,
Tiruchirappalli.

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 the entire records in detention order passed in Cr.M.P.No.45 of 2014, dated 29.10.2014 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 Arumugham, Son of Chinnaiah, aged 36 years, who is detained in Central Prison, Tiruchirappalli before this Court and set him at liberty and pass such further or other orders.

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

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 Cr.M.P.No.45 of 2014, dated 29.10.2014 by the detaining authority, who has been arrayed as second respondent herein against the detenu by name Arumugham, Son of Chinnaiah and quash the same and thereby set him at liberty forthwith.



2. The Inspector of Police, Ramjinagar 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.87 of 2013 Thuvarankurichi Police Station registered under Section 379 of the Indian Penal Code.

(ii) Crime No.188 of 2014 Ramji Nagar Police Station registered under Section 379 of the Indian Penal Code.

(iii) Crime No.93 of 2014 Inamkulathur Police Station registered under Section 379 of the Indian Penal Code.

3. Further it is stated in the affidavit that on 27.09.2014 one Krishnamurthy has given a complaint against the detenu in Inam Kulathur Police Station and the same has been registered in Crime No.112 of 2014 under Sections 392 read with 397 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 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 wife of the detenu as petitioner.

5. On the side of the respondents a detailed counter has been filed, wherein it has been *inter alia* 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. Per contra, 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, twelve 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 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 29.10.2014 passed in Cr.M.P.No.45 of 2014 by the second



respondent/detaining authority is quashed and consequently the respondents are directed to set the detenu viz., Arumugham, Son of Chinnaiah at liberty forthwith, unless he is required to be incarcerated in connection with any other case.

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Sd/-

Assistant Registrar(CO)

/TRUE COPY/

Sub Assistant Registrar

To

- 1.The Secretary to Government to State of Tamil Nadu,
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,
Tiruchirappalli District,
Tiruchirappalli.
- 3.The Joint Secretary to Govt.of Tamilnadu,
Public (Law & Order),
Fort.St.George,Chennai.
- 4.The Superintendent of Police,
Trichy District.
- 5.The Superintendent of Central Prison,
Central Prison,
Tiruchirappalli. (in duplicate to communicate the detenu)
- 6.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

ORDER MADE IN
H.C.P (MD) No.1323 of 2014
25.02.2015

ps

PA/27.02.15/3P/8C