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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.1335 of 2014

Sugumari

.. 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 Commissioner of Police,
Trichy City,
Trichy.

.. 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 records relating to the detention order passed by the second respondent in his proceedings C.No.35/detention/C.P.O/T.C/2014, dated 07.11.2014 and quash the same and direct the respondents to produce the person or body of the detenu namely Pandi @ Saraya Pandi @ Soorya Pandi Raja, Son of Ayyavu Thevar, aged 26 years (now detained at Central Prison, Trichy) before this Court and set him at liberty and pass such further or other orders.

For Petitioner : Mr.N.Anandakumar

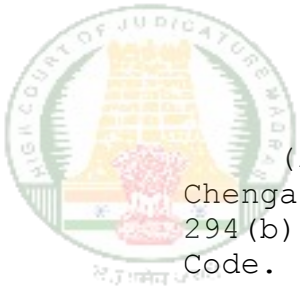
For Respondents : Mr.A.Ramar,
Addl.Public Prosecutor.

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 C.No.35/detention/C.P.O/T.C/2014, dated 07.11.2014 by the detaining authority, who has been arrayed as second respondent herein against the detenu by name Pandi @ Saraya Pandi @ Soorya Pandi Raja, Son of Ayyavu Thevar and quash the same and thereby set him at liberty forthwith.

2. The Inspector of Police, Woraiyur Police Station, Tiruchirappalli District as sponsoring authority has submitted an affidavit to the detaining authority, wherein it has been stated that the detenu has involved in the following adverse cases:



(i) Crime No.477 of 2013 Maraimalai Nagar Police Station, Chengalpattu District registered under Sections 147, 148, 341, 294(b), 324, 302, 506(ii) read with 120(b) of the Indian Penal Code.

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(ii) Crime No.44 of 2014 Government Hospital Police Station, Tiruchirappalli City registered under Sections 323 and 365 altered into Sections 147, 148, 364 and 302 read with 34 of the Indian Penal Code.

(iii) Crime No.82 of 2014 Ariyamangalam Police Station, Tiruchirappalli City registered under Sections 294(b), 323 and 506(ii) of the Indian Penal Code.

(iv) Crime No.83 of 2014 Ariyamangalam Police Station, Tiruchirappalli City registered under Sections 294(b), 506(ii) of the Indian Penal Code and also under Section 3(1) of TNPPDL Act.

3. Further it is stated in the affidavit that on 27.08.2014 one Ibrahim, Son of Batcha as a complainant has given a complaint to the Inspector of Police, Woraiyur Police Station against the detenu and the same has been registered in Crime No.469 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 sister 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, four clear working days are available and in between Column Nos.12 and 13, nine 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 07.11.2014 passed in C.No.35/detention/C.P.O/T.C/2014 by the second respondent/detaining authority is quashed and consequently the respondents are directed to set the detenu viz., Pandi @ Saraya Pandi @ Soorya Pandi Raja at liberty forthwith, unless he is required to be incarcerated in connection with any other case.

Sd/-

Assistant Registrar

\\True copy\\

Sub Assistant Registrar

To

1. THE SECRETARY TO GOVERNMENT HOME, PROHIBITION & EXCISE DEPARTMENT,
FORT ST. GEORGE, CHENNAI.
2. THE COMMISSIONER OF POLICE TRICHY CITY, TRICHY.
3. THE JOINT SECRETARY TO GOVT. OF TAMIL NADU,
PUBLIC (LAW & ORDER) FORT. ST.GEORGE, CHENNAI-9
4. THE SUPERINTENDENT
CENTRAL PRISON, TRICHY
(INDUPLICATE TO COMMUNICATE THE DETENUE)
5. THE ADDITIONAL PUBLIC PROSECUTOR, MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER MADE IN
H.C.P (MD) No.1335 of 2014
25.02.2015

ps

NA/27/02/2015/P3/7C