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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.03.2015

CORAM:

THE HONOURABLE MR.JUSTICE A.SELVAM

and

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

HABEAS CORPUS PETITION (MD) No.1364 of 2014

Rahmed Beevi

.. Petitioner

Vs.

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

2.The District Collector and
District Magistrate,
Thanjavur District,
Thanjavur.

.. 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 pertaining to the impugned detention order passed by the second respondent made in his proceedings in P.D.No.79 of 2014, dated 17.11.2014 in detaining the detenu under Section 2(f) of Tamilnadu Act 14 of 1982 as a GOONDA and quash the same and direct the respondents to produce the detenu namely Mohamed Jalaludeen @ Prabhu, Son of Mohamed Sulthan, aged about 35 years, who is detained in Central Prison, Cuddalore before this Court and set him at liberty and pass such further or other orders.

For Petitioner : Mr.K.M.Karunakaran

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 P.D.No.79 of 2014, dated 17.11.2014 by the detaining authority, who has been arrayed as second respondent herein against the detenu by name Mohamed Jalaludeen @ Prabhu, Son of Mohamed Sulthan and quash the same and thereby set him at liberty forthwith.



2. The Inspector of Police, Kumbakonam West 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 case:

Crime No.331 of 2014 Kumbakonam West Police Station registered under Section 302 altered into Sections 147, 148, 120(b) and 302 of the Indian Penal Code.

3. Further it is stated in the affidavit that on 13.10.2014 one Dakshnamoorthi as complainant has given a complaint in Kumbakonam West Police Station against the detenu and the same has been registered in Crime No.332 of 2014 under Sections 294(b), 506(ii) and 392 of the Indian Penal Code read with 3(1) of the Tamil Nadu Property (Prevention of Damage and Loss) Act, 1992 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 coupled with other connected documents, has derived subjective satisfaction to the effect that the detenu is a habitual offender and thereby 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. Despite of repeated adjournments, counter has not been filed on the side of the respondents. Under the said circumstances, this Habeas Corpus Petition is disposed of on merits on the basis of the contention putforth on the side of the petitioner.

6. The learned counsel appearing for the petitioner has contended that a representation has been submitted to the concerned authority on the side of the detenu and the same has not been disposed of and therefore the detention order in question is liable to be quashed.

7. As stated earlier, inspite of repeated adjournments, counter has not been filed on the side of the respondents. Considering the fact that the counter has not been filed on the side of the respondents and also considering the fact that the representation submitted on the side of the detenu has not been disposed of, this Court is of the view to quash the detention order passed by the detaining authority.

8. In fine, this Habeas Corpus Petition is allowed and the detention order dated 17.11.2014 passed in P.D.No.79 of 2014 by the second respondent/detaining authority is quashed and consequently the respondents are directed to set the detenu viz., Mohamed Jalaludeen @ Prabhu, Son of Mohamed Sulthan at liberty forthwith, unless he is required to be incarcerated in connection with any other case.

Sd/
Assistant Registrar



To

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

2.The Joint Secretary to the Government,
Public (Law & Order)
Fort St. George,
Chennai - 600 009.

3.The District Collector and
District Magistrate, Thanjavur District, Thanjavur.

4. The Director General of Police, Chennai.

5. The Superintendent, Central Prison, Cuddalore
(In duplicate to Communicate the detenue)

6. The Inspector of Police, Kumbakonam West Police Station, Thanjavur.

7.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to M/S. K.M.KARUNAKARAN, Advocate in SR.No. 10142

TS/04.03.2015/3P-10C

ORDER MADE IN
H.C.P (MD) No.1364 of 2014

03.03.2015