



WEB COPY

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.1368 of 2014

Mallika

.. Petitioner

Vs.

1.State of Tamil Nadu,
Rep. By the Secretary to the 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,
Nagapattinam District,
Nagapattinam.

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 entire records in detention order passed in C.O.C.No.59 of 2014, dated 20.11.2014 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 son namely Shankar, Son of Amirthalingam, aged 44 years, who is detained in Central Prison, Tiruchirappalli before this Court and set him at liberty.

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 C.O.C.No.59 of 2014, dated 20.11.2014 by the detaining authority, who has been arrayed as second respondent herein against the detenu by name Shankar, Son of Amirthalingam and quash the same and thereby set him at liberty forthwith.



2. The Inspector of Police, Puthupattinam 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.431 of 2014 Puthupattinam Police Station registered under Section 4(1)(aaa) of TNP Act, 1937.

(ii) Crime No.501 of 2014 Sirkazhi Prohibition Enforcement Wing Police Station registered under Section 4(1)(aaa) of TNP Act, 1937.

3. Further it is stated in the affidavit that on 10.11.2014, on the basis of secret information, the Special Sub-Inspector of Police attached to Puthupattinam Police Station and other police men have gone to the place of occurrence and ultimately found the detenu, who is in possession of 114 litres of illicit arrack and consequently a case has been registered in Crime No.432 of 2014 under Sections 4(1)(i), 4(1)(aaa) read with 4(1-A) TNP Act, 1937 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 'Boot-Legger' 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 mother of the detenu as petitioner.

5. Despite of repeated adjournments, on the side of the respondents counter has not been filed. Under the said circumstances, this Habeas Corpus Petition is disposed of on the basis of the contention put forth 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 pointed out earlier, on the side of the respondents counter has not been filed. Considering the contention put forth on the side of the petitioner 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 impugned detention order passed by the detaining authority.

8. In fine, this Habeas Corpus Petition is allowed and the detention order dated 20.11.2014 passed in C.O.C.No.59 of 2014 by the second respondent/detaining authority is quashed and consequently the respondents are directed to set the detenu viz., Shankar, Son of Amirthalingam at liberty forthwith, unless he is required to be incarcerated in connection with any other case.



To

1.The Secretary to the 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,
Nagapattinam District,
Nagapattinam.

3.The Superintendent of Central Prison,
Central Prison,
Tiruchirappalli.

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

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

+1cc to M/S. K.A.S.Prabhu, Advocate in SR.No. 10136

TS/04.03.2015/2P-7C

ORDER MADE IN
H.C.P (MD) No.1368 of 2014

03.03.2015