



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 23.03.2015
CORAM:

THE HONOURABLE MR.JUSTICE A.SELVAM
and
THE HONOURABLE MR.JUSTICE T.MATHIVANAN

HABEAS CORPUS PETITION(MD)No.1378 of 2014

V.Maheswari

.. Petitioner

Vs.

1.The State of Tamil Nadu,
Rep. By its Secretary to the Government,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai - 9.

2.The District Magistrate and
District Collector,
Virudhunagar,
Virudhunagar 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 passed by the second respondent in his proceedings in Cr.M.P.No.21/2014, dated 11.11.2014 (Video Pirate) and quash the same as illegal and set the detenu namely P.Vairamuthu, Son of Ponnuchamy, aged about 34 years, now confined in Central Prison, Madurai at liberty and pass such further or other orders.

For Petitioner : Mr.V.S.Balamurugan

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 Cr.M.P.No.21/2014, dated 11.11.2014 by the detaining authority, who has been arrayed as second respondent herein against the detenu by name P.Vairamuthu, Son of Ponnuchamy and quash the same and thereby set him at liberty forthwith.

2. The Inspector of Police, Sivakasi East 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.393 of 2011 Sivakasi East Police Station registered under Sections 51(A) read with 63 of Copyright Act and 292(2) (c) of the Indian Penal Code.

(ii) Crime No.516 of 2012 Sivakasi East Police Station registered under Sections 63 read with 51 of Copyright Act.

(iii) Crime No.562 of 2014 Sivakasi East Police Station registered under Sections 51 read with under Section 63 of Copyright Act.

3. Further it is stated in the affidavit that on 11.11.2014, another case has been registered in Sivakasi East Police Station against the detenu in Crime No.609 of 2014 under Sections 52(A) read with 68(A) and 65 of Copyright Act read with 67(A) of Information Technology Act and also under Section 292 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 'Video Pirate' 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 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 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 the representations submitted on the side of the 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, six clear working days are available and in between Column Nos.12 and 13, six clear working days are available. With regard to second representation in between Column Nos.7 to 9, eight clear working days are available and 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, eight clear working days are available and in between Column Nos.12 and 13, five 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 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 11.11.2014 passed in Cr.M.P.No.21/2014 by the second respondent/detaining authority is quashed and consequently the respondents are directed to set the detenu viz., Vairamuthu, Son of Ponnuchamy at liberty forthwith, unless he is required to be incarcerated in connection with any other case.

Sd/-

Assistant Registrar (CO)

/True copy/

Sub Assistant Registrar

To

1. THE SECRETARY TO GOVT ,
HOME, PROHIBITION AND EXERCISE DEPARTMENT, FORT ST. GEORGE, CHENNAI.
2. THE DISTRICT MAGISTRATE AND DISTRICT COLLECTOR, VIRUDHUNAGAR
VIRUDHUNAGAR DISTRICT
3. THE SUPERINTENDENT OF CENTRAL PRISON, MADURAI
(IN DUPLICATE TO COMMUNCIATE THE DETENUE)
4. THE JOINT SECRETARY TO GOVT. OF TAMILNADU PUBLIC (LAW & ORDER) FORT
ST. GEORGE, CHENNAI-9
5. THE DIRECTOR GENERAL OF POLICE CHENNAI-4
6. THE ADDITIONAL PUBLIC PROSECUTOR, MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1cc to Mr.V.S.BALAMURUGAN, Advocate, in SR. No.14253

ORDER MADE IN
H.C.P (MD) No.1378 of 2014
23.03.2015

PS

24/03/2015/P3/9C NA