



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.1390 of 2014

Mariappan @ Soup Mariappan

..Petitioner

Vs.

1.The Secretary to Government,
Home, Prohibition and Excise Department,
State of Tamil Nadu,
Secretariat,
Fort St. George,
Chennai - 600 009.

2.The District Magistrate and District Collector,
Office of the District Magistrate
and District Collector,
Thoothukudi District.

3.The Superintendent of Prison,
Palayamkottai Central Prison,
Tirunelveli 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 the entire records connected with the detention order of the respondent No.2 in H.S.(M) Confdl.No.27/2014, dated 14.11.2014 and quash the same and direct the respondents to produce the detenu namely Mariappan @ Soup Mariappan, Son of Veilugantha Muthaliyar, aged about 54 years, now detained in Palayamkottai Central Prison before this Court and set him at liberty forthwith and pass such further or other orders.

For Petitioner : Mr.R.Alagumani

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 H.S.(M) Confdl.No.27/2014, dated 14.11.2014 by the detaining authority, who has been arrayed as second respondent herein against the detenu by name Mariappan @ Soup Mariappan, Son of Veilugantha Muthaliyar and quash the same and thereby set him at liberty forthwith.

2. The Inspector of Police, Thoothukudi Prohibition Enforcement Services, 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.193 of 2014 Puthiyamputhur Police Station registered under Sections 4(1)(a) 4(1)(i) of TNP Act.

3. Further it is stated in the affidavit that on 03.11.2014, the Inspector of Police has found the detenu in illegal possession of 48 quarter brandy bottles and ultimately a case has been registered in Crime No.997 of 2014 under Section 4(1)(A), 4(1)(a) of TNP Act 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 '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 detenu himself 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/detenu has contended that on the side of the petitioner/detenu a representation has been submitted and the same is 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 representation submitted by the petitioner/detenu is 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, twenty seven clear working days are available and in between Column Nos.12 and 13, two 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 by the petitioner/detenu and that itself would affect his rights 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 14.11.2014 passed in H.S.(MD) Confdl.No.27/2014 by the second respondent/detaining authority is quashed and consequently the respondents are directed to set the detenu viz., Mariappan @ Soup Mariappan, Son of Veilugantha Muthaliyar at liberty forthwith, unless he is required to be incarcerated in connection with any other case.

Sd/-

Assistant Registrar (AS)

/True copy/

Sub Assistant Registrar



To

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
State of Tamil Nadu,
Secretariat, Fort St. George,
Chennai - 600 009.
- 2.The District Magistrate and District Collector,
Office of the District Magistrate
and District Collector,
Thoothukudi District.
- 3.The Superintendent of Prison,
Palayamkottai Central Prison,
Tirunelveli District.
- 4.The Joint Secretary,
Public (Law & Order),
Secretariat, Govt., of Tamil Nadu,
Chennai - 600 009.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.R.Alagumani, Advocate in SR.14417

H.C.P (MD) No.1390 of 2014
23.03.2015

ps

pbk 24/03/2015 ::3p-6c: