



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.03.2015

CORAM:

THE HONOURABLE MR.JUSTICE A.SELVAM

and

THE HONOURABLE MR.JUSTICE T.MATHIVANAN

HABEAS CORPUS PETITION(MD)No.1393 of 2014

Gnanamani

..Petitioner

Vs.

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

2.The District Collector and
District Magistrate,
Dindigul 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 Detention Order No.30/2014, dated 21.10.2014 and quash the same and direct the respondents to produce the detenu namely Boobalan, Son of late.Sethupathi, aged about 23 years, now detained at Central Prison, Madurai before this Court and set him at liberty forthwith and pass such further or other orders.

For Petitioner : Mr.D.Venkatesh
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 Detention Order No.30/2014, dated 21.10.2014 by the detaining authority, who has been arrayed as second respondent herein against the detenu by name Boobalan, Son of late.Sethupathi and quash the same and thereby set him at liberty forthwith.

2. The Inspector of Police, Palani Town 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.1377 of 2011 Palani Town Police Station registered under Sections 294(b), 324 and 506(ii) of the Indian Penal Code.

(ii) Crime No.25 of 2013 Palani Adivaram Police Station registered under Sections 341, 294(b), 324 and 506(ii) of the Indian Penal Code.

<https://hcservices.ecourts.gov.in/hcservices/> Crime No.523 of 2014 Palani Town Police Station registered under Sections 147, 148, 294(b), 307, 302 and 506 (ii) of the Indian Penal Code.



3. Further it is stated in the affidavit that on 02.09.2014 one Xavier, Son of Ramkumar as complainant has given a complaint in Palani Town Police Station against the detenu and others and the same has been registered in Crime No.529 of 2014 under Sections 395 and 506(ii) 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 '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 mother 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 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, eight clear working days are available and in between Column Nos.12 and 13, seven 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 21.10.2014 passed in Detention Order No.30/2014 by the second respondent/detaining authority is quashed and consequently the respondents are directed to set the detenu viz., Boobalan, Son of late.Sethupathi at liberty forthwith, unless he is required to be incarcerated in connection with any other case.

Sd/-

Assistant Registrar(Writs)

/True copy/

Sub Assistant Registrar

To

1. THE SECRETARY TO GOVERNMENT,

HOME, PROHIBITION AND EXCISE DEPARTMENT,
FORT. ST. GEORGE, CHENNAI - 9.



2. THE JOINT SECRETARY TO GOVT.,
PUBLIC (LAW & ORDER) FORT ST.GEORGE, CHENNAI.

3. THE DISTRICT COLLECTOR & DISTRICT MAGISTRATE,
DINDIGUL DISTRICT.

4. THE DIRECTOR GENERAL OF POLICE,
CHENNAI.

5. THE SUPERINTENDENT OF POLICE,
DINDIGUL DISTRICT, DINDIGUL.

6. THE SUPERINTENDENT, CENTRAL PRISON, MADURAI.
(DUPLICATE TO COMMUNICATE TO THE DETENU)

7. THE INSPECTOR OF POLICE,
PALANI TOWN POLICE STATION, DINDIGUL DISTRICT.

8. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1CC to M/s.D.Venkatesh, Advocate in SR.11707

H.C.P (MD) No.1393 of 2014
11.03.2015

ps

PBK 13/03/2015 ::3P-11C: