



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 10.03.2015
CORAM:

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

HABEAS CORPUS PETITION(MD)No.1398 of 2014

Martin @ Martin Prakash .. Petitioner

Vs.

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
State of Tamil Nadu,
Fort St. George,
Chennai - 9.
 - 2.The District Collector and District Magistrate,
O/o.District Collector and District Magistrate,
Kanniyakumari 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 entire records connected with the detention order of the respondent No.2 in P.D.No.27 of 2014, dated 14.11.2014 and quash the same and direct the respondents to produce the body or person of the detenu by name Martin @ Martin Prakash, Son of Jesudhas, aged about 25 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,
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 P.D.No.27 of 2014, dated 14.11.2014 by the detaining authority, who has been arrayed as second respondent herein against the detenu by name Martin @ Martin Prakash, Son of Jesudhas and quash the same and thereby set him at liberty forthwith.

<https://hcservices.ecourts.gov.in/hcservices/>

2. The Inspector of Police, Kanniyakumari 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.905 of 2011 Kanniyakumari Police Station registered under Sections 147, 148, 302 of the Indian Penal Code altered into Sections 120(b), 147, 148, 364, 302, 396 read with 149 of the Indian Penal Code.

(ii) Crime No.417 of 2013 Kanniyakumari Police Station registered under Sections 294(b), 387 and 506(ii) of the Indian Penal Code.

(iii) Crime No.511 of 2014 Kanniyakumari Police Station registered under Sections 341, 294(b), 323 and 506(i) of the Indian Penal Code.

3. Further it is stated in the affidavit that on 31.10.2014 one Kathadi @ Praveen has given a complaint in Kanniyakumari Police Station against the detenu and the same has been registered in Crime No.565 of 2014 under Sections 294(b), 307 of the Indian Penal Code altered into Sections 294(b), 307 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 detenu himself as petitioner.

5. On the side of the respondents a detailed counter has been filed, wherein it has been contended *inter alia* 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 two representations have been submitted and the same have 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 representations submitted by the detenu have been duly considered and disposed of without delay and therefore the detention order in question need not be quashed.

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, five clear working days are available and in between Column Nos.12 and 13, twenty one clear working days are available and with regard to second representation in between Column Nos.7 to 9, twelve clear working days are available and in between Column Nos.12 and 13, twenty one clear working days are available and no explanation has been given on the side of the respondents with regard to huge delay 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 14.11.2014 passed in P.D.No.27 of 2014 by the second respondent/detaining authority is quashed and consequently the respondents are directed to set the detenu viz., Martin @ Martin Prakash, Son of Jesudhas at liberty forthwith, unless he is required to be incarcerated in connection with any other case.

Sd/-

Assistant Registrar(AE)

\\True copy\\

Sub Assistant Registrar

To

- 1.The Secretary to Government, Home, Prohibition and Excise Department,
State of Tamil Nadu, Fort St. George, Chennai - 9.
- 2.The District Collector and District Magistrate,
O/o.District Collector and District Magistrate,
Kanniyakumari District.
- 3.The Superintendent of Prison,
Palayamkottai Central Prison,
Tirunelveli District.(In duplicate for communication to the detenu)
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
- 5.The Joint Secretary to Government Public(Law &n Order)
Fort St.George, Chennai-9

+1 CC TO M/S.R.ALAGUMANI, ADVOCATE SR.NO.11794

ORDER MADE IN
H.C.P (MD) No.1398 of 2014
10.03.2015

PS

NA/12/03/2015/P3/8C