



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.03.2015

CORAM:

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

HABEAS CORPUS PETITION (MD) No.1405 of 2014

Pandiammal .. Petitioner

Vs.

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

2.The District Magistrate and
District Collector,
O/o.The District Magistrate and
District Collector,
Pudukkottai District,
Pudukkottai.

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 P.D.O.No.18/2014, dated 25.11.2014 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 Selvakumar @ Selvam, Son of Ganesan, male, aged 23 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, 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.O.No.18/2014, dated 25.11.2014 by the detaining authority, who has been arrayed as second respondent herein against the detenu by name Selvakumar @ Selvam, Son of Ganesan and quash the same and thereby set him at liberty forthwith.

2. The Inspector of Police, Ganesh Nagar Police Station, Pudukkottai 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.124 of 2012 Ganesh Nagar Police Station registered under Sections 294(b) and 506(i) of the Indian Penal Code altered into Section 294(b) of the Indian Penal Code.

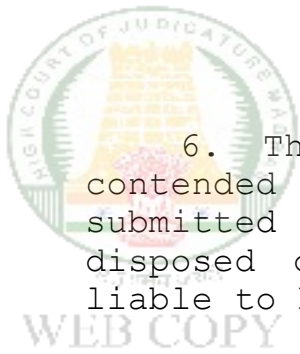
(ii) Crime No.354 of 2012 Ganesh Nagar Police Station registered under Sections 147, 294(b), 323 and 506(i) of the Indian Penal Code altered into Section 294 (b) of the Indian Penal Code.

(iii) Crime No.392 of 2014 Ganesh Nagar Police Station registered under Section 379 of the Indian Penal Code.

3. Further it is stated in the affidavit that on 10.11.2014 one Mohamed Yunus, Son of Sheik Dawood as complainant has given a complaint in Ganesh Nagar Police Station against the detenu and the same has been registered in Crime No.388 of 2014 under Section 302 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. Despite of repeated adjournments on the side of the respondents, counter has not been filed. Under the said circumstances, this petition is disposed of on merits.



6. The learned counsel appearing for the petitioner has contended that on the side of the detenu a representation has been submitted to the concerned authority and the same has not been disposed of and therefore the detention order in question is liable to be quashed.

7. Considering the representation made on the side of the detenu and also considering the fact that the representation submitted on the side of the detenu has not yet been disposed of by the concerned authority, this Court is of the considered view that the detention order in question is liable to be quashed.

8. In fine, this Habeas Corpus Petition is allowed and the detention order passed in P.D.O.No.18/2014, dated 25.11.2014 by the second respondent/detaining authority is quashed and consequently the respondents are directed to set the detenu viz., Selvakumar @ Selvam, Son of Ganesan at liberty forthwith, unless he is required to be incarcerated in connection with any other case.

Sd/-
Assistant Registrar(Crl.Side)

/True Copy/

Sub-Assistant Registrar

To

- 1.The Secretary to the Government,
Home, Prohibition and Excise Department,
Fort St. George, Chennai - 9.
 - 2.The District Magistrate and District Collector,
O/o.The District Magistrate and District Collector,
Pudukkottai District, Pudukkottai.
 - 3.The Superintendent of Central Prison,
Central Prison, Tiruchirappalli.
 - 4.The Joint Secretary to Government of Tamilnadu,
Public (Law & order) Department, Fort St.George, Chennai-9.
 - 5.The Inspector of Police, Ganesh Nagar Police Station,
Pudukkottai.
 - 6.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.
- +1cc to Mr.K.A.S.Prabhu, Advocate, in SR. No.14896.