



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.1410 of 2014

Prema .. 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 Collector and
District Magistrate,
O/o.The District Collector and
District Magistrate,
Nagapattinam District,
Nagapattinam.

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 C.O.C.No.60/2014, dated 24.11.2014 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 husband namely Kannadasan, Son of Nagappan, male, aged 42 years, who is detained in Central Prison, Tiruchirappalli before this Court and set him at liberty and pass such further or other orders.

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 C.O.C.No.60/2014, dated 24.11.2014 by the detaining authority, who has been arrayed as second respondent herein against the detenu by name Kannadasan, Son of Nagappan and quash the same and thereby set him at liberty forthwith.

2. The Inspector of Police, Kilvelur 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.120 of 2014 Kilvelur Police Station registered under Section 4(1)(i), 4(1)(aaa) read with 4(1-A) TNP Act, 1937.

(ii) Crime No.288 of 2014 Kilvelur Police Station registered under Section 4(1)(aaa) read with 4(1-A) TNP Act, 1937.

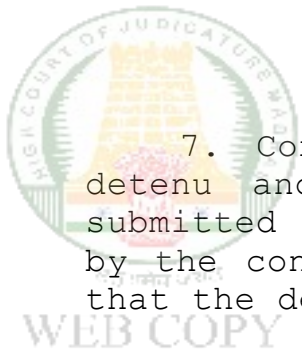
(iii) Crime No.351 of 2014 Kilvelur Police Station registered under Section 4(1)(aaa) read with 4(1-A) TNP Act, 1937.

3. Further it is stated in the affidavit that on 08.11.2014, the Inspector of Police, Kilvelur Police Station has found the detenu in possession of some liquor bottles without licence and consequently, a case has been registered in Crime No.501 of 2014 under Sections 4(1)(i), 4(1)(aaa) read with 4(1-A) TNP Act, 1937 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 wife 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 made 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 C.O.C.No.60/2014, dated 24.11.2014 by the second respondent/detaining authority is quashed and consequently the respondents are directed to set the detenu viz., Kannadasan, Son of Nagappan at liberty forthwith, unless he is required to be incarcerated in connection with any other case.

Sd/-

Assistant Registrar(A.S,)

/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 Collector and District Magistrate,
O/o.The District Collector and District Magistrate,
Nagapattinam District, Nagapattinam.
- 3.The Superintendent of Central Prison,
Central Prison, Tiruchirappalli.
- 4.The Joint Secretary to Government of Tamilnadu,
Home (Law & order) Department, Fort St.George, Chennai-9.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1cc to Mr.K.A.S.Prabhu, Advocate, in SR. No.14897.

ORDER MADE IN
H.C.P (MD) No.1410 of 2014
26.03.2015

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