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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.1424 of 2014

Silambu @ Silambarasan

.. 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 Collector and
District Magistrate,
Office of the District Collector and
District Magistrate,
Trichy District.

3.The Superintendent of Prison,
Trichy Central Prison,
Trichy 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 Cr.M.P.No.46/2014, dated 25.11.2014 and quash the same and direct the respondents to produce the body or person of the detenu namely Silambu @ Silambarasan, Son of Kanagu @ Kanagasundaram, aged about 29 years, detained in Trichy Central Prison before this Court and set him at liberty forthwith.

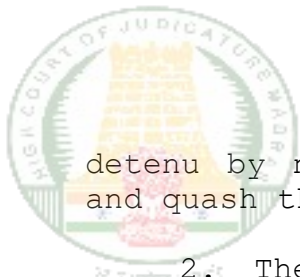
For Petitioner : Mr.R.Alagumani

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 Cr.M.P.No.46/2014, dated 25.11.2014 by the detaining authority, who has been arrayed as second respondent herein against the



detenu by name Silambu @ Silambarasan, Son of Kanagu @ Kanagasundaram and quash the same and thereby set him at liberty forthwith.

2. The Inspector of Police, Somarasampettai 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.397 of 2012 Karur District, Kulithalai Police Station registered under Sections 147, 148, 294(b), 324, 506(ii), 302 of the Indian Penal Code read with Section 149 of the Indian Penal Code.

(ii) Crime No.239 of 2013 Trichy District, Somarasampettai Police Station registered under Sections 294 (b), 436 and 506(i) of the Indian Penal Code read with Section 3 of TNPPDL Act.

(iii) Crime No.122 of 2014 Trichy District, Somarasampettai Police Station registered under Sections 147, 294(b), 354(a) (1) of the Indian Penal Code read with Section 3 of TNPPDL Act, 3(1) (R) and 3(2) (v.a) SC/ST (POA), Act.

3. Further it is stated in the affidavit that on 20.10.2014 one Joseph, Son of Xavier as complainant has given a complaint in Somarasampettai Police Station against the detenu and the same has been registered in Crime No.338 of 2014 under Sections 392 and 506(ii) of the Indian Penal Code and also under Section 3 of TNPPDL 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 '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. Despite of repeated adjournments on the side of the respondents, counter has not been filed.

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

7. Considering the fact that the representations submitted by the petitioner/detenu to the concerned authority are not disposed of, 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 Cr.M.P.No.46/2014, dated 25.11.2014 by the second respondent/detaining authority is quashed and consequently the respondents are directed to set the detenu viz., Silambu @ Silambarasan,



Son of Kanagu @ Kanagasundaram at liberty forthwith, unless he is required to be incarcerated in connection with any other case.

Sd/-

Assistant Registrar(Crl.Side)

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/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 Collector and
District Magistrate,
Office of the District Collector and
District Magistrate,
Trichy District.
- 3.The Superintendent of Prison,
Trichy Central Prison,
Trichy District.(in duplicate to communicate to the detenu)
- 4.The Joint Secretary to Govt.,
Public (Law & Order)Department,
Fort St.George, Chennai - 9.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.R.Alagumani,Advocate, SR.No.15091

ORDER MADE IN
H.C.P (MD) No.1424 of 2014
26.03.2015

ps

PA/27.03.2015/3P/8C