



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 30.03.2015
CORAM:

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

HABEAS CORPUS PETITION(MD)No.1433 of 2014

Selvi .. Petitioner

Vs.

- 1.The Secretary to the Government,
Home, Prohibition and Excise Department,
State of Tamil Nadu,
Fort St. George,
Chennai - 600 009.
- 2.The District Collector and
District Magistrate,
Office of the District Collector
and District Magistrate,
Nagapattinam.
- 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 passed by the second respondent in C.O.C.No.64/2014, dated 29.11.2014 and quash the same and direct the respondents to produce the body or person of the detenu by name Babu, Son of Anbalagan, aged about 25 years, now detained in Trichy 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 C.O.C.No.64/2014, dated 29.11.2014 by the detaining authority, who has been arrayed as second respondent herein against the detenu by name Babu, Son of Anbalagan and quash the same and thereby set him at liberty forthwith.



2. The Inspector of Police, Sembanarkovil 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.551 of 2014 Mayiladuthurai Police Station registered under Sections 507 and 506(ii) of the Indian Penal Code.

(ii) Crime No.278 of 2014 Thiruvankadu Police Station registered under Sections 147, 148, 341, 323, 324 of the Indian Penal Code read with Section 3(1)(X) of SC/ST Act.

3. Further it is stated in the affidavit that on 02.11.2014 one Samiyappan as complainant has given a complaint to the Inspector of Police, Sembanarkovil Police Station against the detenu and others and the same has been registered in Crime No.434 of 2014 under Sections 147, 148, 307, 302 of the Indian Penal Code and also under Section 3 of Explosive Substance Act, 1908 and also under Section 25(1-B)(b) Arms Act, 1959 and ultimately requested the detaining authority to invoke Act 14 of 1982 against the detenu.

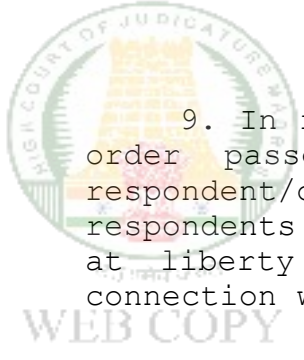
4. The detaining authority, after considering the averments made in the affidavit and other connected documents, has derived subjective satisfaction to the effect that the detenu is a habitual offender and ultimately branded him as 'Goonda' by way of passing the impugned detention order and in order 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 two representations have been submitted and the same are not 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 all the representations submitted on the side of the detenu are 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, fifteen clear working days are available and in between Column Nos.12 and 13, four clear working days are available and with regard to second representation in between Column Nos.7 to 9, eight clear working days are available and in between Column Nos.12 and 13, fourteen clear working days are available and no explanation has been given on the side of the respondents with regard to such delay in disposing of the representations submitted on the side of the detenu and that itself would affect his rights 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 passed in C.O.C.No.64/2014, dated 29.11.2014 by the second respondent/detaining authority is quashed and consequently the respondents are directed to set the detenu viz., Babu, Son of Anbalagan at liberty forthwith, unless he is required to be incarcerated in connection with any other case.

Sd/-
Assistant Registrar(CO)

\\True copy\\

Sub Assistant Registrar

To

1. THE SECRETARY TO GOVERNMENT
HOME, PROHIBITION AND EXCISE DEPARTMENT, STATE OF TAMILNADU,
SECRETARIAT, FORT. ST. GEORGE, CHENNAI - 600 009.
2. THE DISTRICT COLLECTOR AND DISTRICT MAGISTRATE, OFFICE OF THE DISTRICT
COLLECTOR AND DISTRICT MAGISTRATE, NAGAPATTINAM.
3. THE SUPERINTENDENT OF PRISON TRICHY CENTRAL PRISON, TRICHY DISTRICT.
(IN DUPLICATE TO COMMUNICATE THE DETENUE)
4. THE JOINT SECRETARY TO GOVERNMENT PUBLIC (LAW & ORDER) FORT ST. GEORGE,
CHENNAI-9
5. THE ADDITIONAL PUBLIC PROSECUTOR, MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER MADE IN
H.C.P (MD) No.1433 of 2014
30.03.2015

ps

NA/31/03/2015/P3/7C