



WEB COPY

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.1437 of 2014

Vasantha

..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.61/2014, 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 Thiruttukumar @ Ganeshkumar, Son of Kuppusamy, male, aged 24 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.61/2014, dated 25.11.2014 by the detaining authority, who has been arrayed as second respondent herein against the detenu by name Thiruttukumar @ Ganeshkumar, Son of Kuppusamy and quash the same and thereby set him at liberty forthwith.

2. The Inspector of Police, Velankanni Police Station as sponsoring authority has submitted an affidavit to the detaining authority, wherein the detenu has involved in the following adverse cases:

(i) Crime Nos.94 and 95 of 2011 Velankanni Police Station registered under Sections 147, 148, 452, 364, 342, 324, 307,



302, 120(b), 114 and 149 of the Indian Penal Code.

(ii) Crime No.50 of 2012 Velankanni Police Station registered under Sections 294(b), 452, 324 and 506(ii) of the Indian Penal Code.

(iii) Crime No.450 of 2013 Velankanni Police Station registered under Section 363 of the Indian Penal Code.

(iv) Crime No.256 of 2014 Velankanni Police Station registered under Section 394 of the Indian Penal Code.

3. Further it is stated in the affidavit that on 12.11.2014 one Muruganandham as complainant has given a complaint to the Inspector of Police, Velankanni Police Station against the detenu and the same has been registered in Crime No.420 of 2014 under Sections 294(b), 386 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 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 on the basis of available facts.

6. The learned counsel appearing for the petitioner has contended that on the side of the detenu a representation has been given on 08.12.2014 and the same has not been considered by the concerned authority and therefore the detention order in question is liable to be quashed.

7. Considering the fact that the representation given on the side of the detenu has not 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.61/2014, dated 25.11.2014 by the second respondent/detaining authority is quashed and consequently the respondents are directed to set the detenu viz., Thiruttukumar @ Ganeshkumar, Son of Kuppusamy at liberty forthwith, unless he is required to be incarcerated in connection with any other case.

Sd/-

Assistant Registrar(AS)

/True copy/

Sub Assistant Registrar

To

1. THE SECRETARY TO 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, TRICHY.

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 M/s.K.A.S.Prabhu, Advocate in SR.14898

H.C.P (MD) No.1437 of 2014
26.03.2015

ps

PBK 27/03/2015 ::3P-7C: