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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.03.2015

CORAM:

THE HONOURABLE MR.JUSTICE A.SELVAM

and

THE HONOURABLE MR.JUSTICE T.MATHIVANAN

HABEAS CORPUS PETITION(MD)No.1450 of 2014

Arumuga Nainar @ Kuttidurai

..Petitioner

Vs.

1.The State of Tamil Nadu,
Rep. By its Secretary to the Government,
Home, Prohibition and Excise Department,
Fort St. George,
Secretariat,
Chennai - 600 009.

2.The District Collector and
District Magistrate,
Tirunelveli District,
Tirunelveli.

3.The Inspector of Police,
Munneerpallam Police Station,
Tirunelveli 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 relating to the impugned detention order passed in M.H.S.Confdl.No.69/2014, dated 23.09.2014 on the file of the second respondent herein and quash the same and direct the respondents to produce the detenu namely Selvam, aged 23 years, Son of Arumuganainar alias Kuttidurai, now confined in Central Prison, Palayamkottai before this Court and set him at liberty forthwith and pass such further or other orders.

For Petitioner : Mr.S.Sundarapandian

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 M.H.S.Confdl.No.69/2014, dated 23.09.2014 by the detaining authority, who has been arrayed as second respondent herein against the detenu by name Selvam, Son of Arumuganainar alias Kuttidurai and quash the same and thereby set him at liberty forthwith.

2. The Inspector of Police, Munneerpallam Police Station as <https://hservices.ecourts.gov.in/hservices/> 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.262 of 2014 Munneerpallam Police Station registered under Sections 307 and 302 read with Section 34 of the Indian Penal Code and Section 3(2)(v) of Schedule Caste and Schedule Tribe (Prevention of Atrocities) Act, 1989.

(ii) Crime No.86 of 2014 Pathamadai Police Station registered under Sections 387 and 506(ii) of the Indian Penal Code.

3. Further it is stated in the affidavit that on 24.08.2014 one Arumugam as complainant has lodged a complaint to the Inspector of Police, Munneerpallam Police Station against the detenu and the same has been registered in Crime No.284 of 2014 under Sections 294(b), 387 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 father 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 have not been 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 the representations submitted on the side of the detenu are duly considered and disposed of without delay and therefore the detention order in question does not call for any interference.

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 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, eight clear working days are available and no explanation has been given on the side of the respondents with regard to huge delay in disposing of the representations submitted on the side of the detenu and that itself would affect the rights of the detenu 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 M.H.S.Confdl.No.69/2014, dated 23.09.2014 by the second respondent/detaining authority is quashed and consequently the respondents are directed to set the detenu viz., Selvam, Son of Arumuganainar alias Kuttidurai 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 & EXCISE DEPARTMENT, FORT ST.GEORGE,
SECRETARIAT, CHENNAI.

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2. THE DISTRICT COLELCTOR AND DISTRICT MAGISTRATE,
TIRUNELVELI DISTRICT, TIRUNELVELI.

3. THE INSPECTOR OF POLICE, MUNNEERPALLAM POLICE STATION,
TIRUNELVLEI DISTRICT.

4. THE SUPERINTENDENT, CENTRAL PRISON, PALAYAMKOTTAI.
(IN DUPLICATE TO COMMUNICATE THE DETENUE)

5. THE JOINT SECRETARY TO GOVT., OF TAMILANADU,
PUBLIC (LAW & ORDER), FORT ST.GEORGE, CHENNAI-9.

6. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

H.C.P (MD) No.1450 of 2014
25.03.2015

ps

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