



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.03.2015

CORAM:

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**THE HONOURABLE MR.JUSTICE A.SELVAM
and
THE HONOURABLE MS.JUSTICE V.M.VELUMANI**

HABEAS CORPUS PETITION (MD) No.1481 of 2014

A.Muthu .. Petitioner

Vs.

1.The Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai - 600 009.

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

3.The Superintendent,
Special Prison for Women,
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 the records pertaining to the impugned detention order passed by the second respondent made in his proceedings in C.O.C.No.69 of 2014 dated 11.12.2014 in detaining the detenu under Section 2(b) of Tamilnadu Act 14 of 1982 as a Boot-legger and quash the same and direct the respondents to produce the detenu namely Pethammal, Wife of Nanni @ Alazharsamy, aged about 50 years, who is detained in Special Prison for Women, Tiruchirappalli before this Court and set her at liberty and pass such further or other orders.

For Petitioner : Mr.K.M.Karunakaran

For Respondents : Mr.A.Ramar, Addl.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.69 of 2014, dated 11.12.2014 by the detaining authority, who has been arrayed as second respondent herein against the detenu by name Pethammal, Wife of Nanni @ Alazharsamy and quash the same and thereby set her at liberty forthwith.

2. The Inspector of Police, Vaitheeswarankovil 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.66 of 2014 Vaitheeswarankovil Police Station registered under Sections 4(1)(aaa) read with 4(1-A) of TNP Act, 1937 altered into Section 4(1)(aaa) of TNP Act, 1937.

(ii) Crime No.79 of 2014 Vaitheeswarankovil Police Station registered under Sections 4(1)(aaa) read with 4(1-A) of TNP Act, 1937 altered into Section 4(1)(aaa) of TNP Act, 1937.

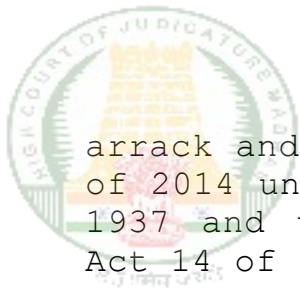
(iii) Crime No.103 of 2014 Vaitheeswarankovil Police Station registered under Sections 4(1)(aaa) read with 4(1-A) of TNP Act, 1937 altered into Section 4(1)(aaa) of TNP Act, 1937.

(iv) Crime No.126 of 2014 Vaitheeswarankovil Police Station registered under Sections 4(1)(aaa) read with 4(1-A) of TNP Act, 1937 altered into Section 4(1)(aaa) of TNP Act, 1937.

(v) Crime No.240 of 2014 Vaitheeswarankovil Police Station registered under Sections 4(1)(aaa) read with 4(1-A) of TNP Act, 1937 altered into Section 4(1)(aaa) of TNP Act, 1937.

(vi) Crime No.262 of 2014 Vaitheeswarankovil Police Station registered under Sections 4(1)(aaa) read with 4(1-A) of TNP Act, 1937 altered into Section 4(1)(aaa) of TNP Act, 1937.

3. Further it is stated in the affidavit that on 29.11.2014, the Circle Inspector of Police along with his police party has met a raid and found that the detenu is in possession of illicit



arrack and consequently a case has been registered in Crime No.297 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.

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4. The detaining authority, after considering the averments made in the affidavit coupled with other connected documents, has derived subjective satisfaction to the effect that the detenu is a habitual offender and thereby branded her 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 son of the detenu as petitioner.

5. Even though the present petition has been posted today for filing counter on the side of the respondents, counter has not been filed. Under the said circumstances, this Habeas Corpus Petition is disposed of on merits on the basis of the contention putforth on the side of the petitioner.

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

7. Considering the fact that on the side of the respondents counter has not been filed and also considering the fact that the representation submitted on the side of the detenu has not been disposed of, this Court is of the view to quash the detention order passed by the detaining authority.

8. In fine, this Habeas Corpus Petition is allowed and the detention order dated 11.12.2014 passed in C.O.C.No.69 of 2014 by the second respondent/detaining authority is quashed and consequently the respondents are directed to set the detenu viz., Pethammal, Wife of Nanni @ Alazharsamy at liberty forthwith, unless she is required to be incarcerated in connection with any other case.

Sd/-

Assistant Registrar(C.O.,)

/True Copy/

Sub-Assistant Registrar



To

- 1.The Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.
 - 2.The Joint Secretary to Government of Tamilnadu,
Public (Law & order) Department, Fort St.George, Chennai-9.
 - 3.The District Collector and District Magistrate,
Nagappattinam District, Nagappattinam.
 - 4.The Superintendent, Special Prison for Women, Tiruchirappalli.
[in duplicate to communicate the detenu]
 - 5.The Inspector of Police, Sirkazhi Circle, Nagapattinam.
 - 6.The Director General of Police, Chennai.
 - 7.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.
- +1cc to Mr.K.M.Karunakaran, Advocate, in SR. No.10143.

ORDER MADE IN
H.C.P (MD) No.1481 of 2014
03.03.2015

ps

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