



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.03.2015

CORAM:

THE HONOURABLE MR.JUSTICE A.SELVAM
and

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

HABEAS CORPUS PETITION(MD)No.1483 of 2014

S.Mahalakshmi

.. Petitioner

Vs.

1.The Secretary to the 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,
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 of the Respondent No.2 in C.O.C.No.73 of 2014, dated 13.12.2014 and quash the same and direct the respondents to produce the body or person of the detenu by name Siva, Son of Joseph, aged about 24 years, now detained in Trichy Central Prison before this court and set him at liberty forthwith and pass such further or other orders.

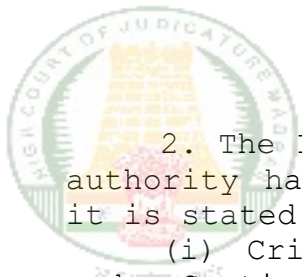
For Petitioner : Mr.R.Alagumani

For Respondents : Mr.A.Ramar,
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.73 of 2014, dated 13.12.2014 by the detaining authority, who has been arrayed as second respondent herein against the detenu by name Siva, Son of Joseph 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.125 of 2013 Urulaiyampettai Police Station registered under Sections 448, 324 and 506(ii) read with 34 of the Indian Penal Code.

(ii) Crime No.53 of 2014 Urulaiyampettai Police Station registered under Sections 34(A)(I) of TNPPDL Act, 1992 (amended 1994) and 506(ii) of the Indian Penal Code.

(iii) Crime No.153 of 2014 Urulaiyampettai Police Station registered under Sections 34(A)(I) of TNPPDL Act, 1992 (amended 1994) and 506(ii) of the Indian Penal Code.

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 and 302 of the Indian Penal Code and Section 3 of Explosive Substance Act, 1908 and 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 coupled with other connected documents, has derived subjective satisfaction to the effect that the detenu is a habitual offender and thereby 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 wife 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 put forth on the side of the petitioner.

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

7. As pointed out earlier, on the side of the respondents counter has not been filed. Further it is represented on the side of the petitioner that the representations submitted by the petitioner have not been disposed of. Under the said circumstances, 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 13.12.2014 passed in C.O.C.No.73 of 2014 by the second respondent/detaining authority is quashed and consequently the respondents are directed to set the detenu viz., Siva, Son of Joseph at liberty forthwith, unless he is required to be incarcerated in connection with any other case.

Sd/
Assistant Registrar



To

1.The Secretary to the 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,
Nagapattinam.

3.The Superintendent of Prison,
Trichy Central Prison,
Trichy District.

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

5 The Joint Secretary to the Government,
Public (Law & Order)
Fort St. George,
Chennai - 600 009.

+lcc to M/S.R.Alagumani, Advocate in SR.No. 10312

TS/04.03.2015/3P-7C

ORDER MADE IN
H.C.P (MD) No.1483 of 2014

03.03.2015