



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 09.04.2015

CORAM

THE HONOURABLE MR. JUSTICE A.SELVAM
and
THE HONOURABLE MR. JUSTICE V.S.RAVI

H.C.P. (MD) No.1488 of 2014

Valliammal .. Petitioner

Vs.

- 1.The Principal Secretary to Government,
Home, Prohibition & Excise Department,
Secretariat, Chennai - 9.
 - 2.The District Collector & District Magistrate,
O/o.District Collector & District Magistrate,
Kanyakumari District at Nagercoil.
 - 3.The Superintendent of Prison,
Palayamkottai Central Prison,
Tirunelveli District.
- .. Respondents

Habeas Corpus Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus to call for entire records pertaining to the impugned detention order passed by the 2nd respondent in P.D.No.30/2014 dated 20.11.2014 and quash the same and direct the respondents to produce the detenu namely Pandian S/o.Perumal, aged about 26 years, detained in Central Prison, Palayamkottai before this Court and set him at liberty.

For Petitioner : Mr.R.Alagumani

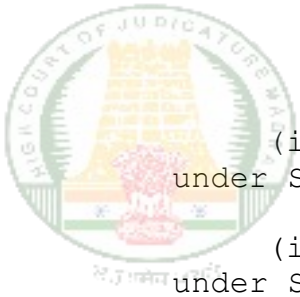
For Respondents : Mr.C.Ramesh, Addl.Public Prosecutor

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 the detention order passed in P.D.No.30/2014 dated 20.11.2014 by the detaining authority who has been arrayed as second respondent herein against the detenu by name Pandian S/o.Perumal and quash the same and thereby set him at liberty forthwith.

2. The Inspector of Police, Anjugramam 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.2656/2011, Kottar Police Station, registered under Sections 457 and 380 of the Indian Penal Code.

(ii) Crime No.2727/2011, Kottar Police Station registered under Sections 457 and 380 of the Indian Penal Code.

(iii) Crime No.49/2012, Nagar Police Station registered under Sections 457 and 380 of the Indian Penal Code.

(iv) Crime No.113/2012, Vadasery Police Station registered under Sections 457 and 380 of the Indian Penal Code.

(v) Crime No.153/2012, Vadasery Police Station registered under Sections 457 and 380 of the Indian Penal Code.

(vi) Crime No.88/2012, Anjugramam Police Station registered under Sections 457 and 380 of the Indian Penal Code.

(vii) Crime No.312/2012, Kottar Police Station registered under Sections 457 and 380 of the Indian Penal Code.

(viii) Crime No.366/2012, Suchindram Police Station registered under Sections 457 and 380 of the Indian Penal Code.

3. Further it is stated in the affidavit that on 05.11.2014, one Satheeshkumar as complainant has given a complaint to the Inspector of Police, Anjugramam Town Police Station against the detenu and the same has been registered in Crime No.495 of 2014 under Sections 341, 294(b), 323, 387, 307 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 viz., second respondent herein 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 Petition has been filed by the mother of the detenu as petitioner.

5. On the side of the respondents 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 disposed of without delay and therefore, the detention order in question



8. On the side of the respondents, a proforma has been submitted, wherein, with regard to first representation it has been clearly stated that in between column Nos.7 to 9, 6 clear working days are available and in between column Nos.12 and 13, 5 clear working days are available and with regard to second representation in between column Nos.7 to 9, 3 clear working days are available and in between column Nos.12 and 13, 18 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 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 dated 20.11.2014 passed in P.D.No.30/2014 by the detaining authority/second respondent herein is quashed and the detenu by name Pandian is ordered to be set at liberty forthwith, unless he is required to be incarcerated in any other case.

Sd/-

Assistant Registrar(RTI)

/True Copy/

Sub-Assistant Registrar

To

- 1.The Principal Secretary to Government,
Home, Prohibition & Excise Department, Secretariat, Chennai - 9.
- 2.The District Collector & District Magistrate,
O/o.District Collector & District Magistrate,
Kanyakumari District at Nagercoil.
- 3.The Joint Secretary to Government of Tamilnadu,
Public (Law & order) Department, Fort St.George, Chennai-9.
- 4.The Director General of Police, Chennai-4.
- 5.The Superintendent of Prison,
Palayamkottai Central Prison,
Tirunelveli District.
- 6.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1cc to Mr.R.Alagumani, Advocate, in SR. No.18464.

H.C.P. (MD) No.1488 of 2014
09.04.2015

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