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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 09.04.2015

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THE HONOURABLE MR.JUSTICE A.SELVAM

and

THE HONOURABLE MR.JUSTICE V.S.RAVI

H.C.P. (MD) No.1489 of 2014

Vanitha

.. Petitioner

Vs.

1.State of Tamilnadu

Secretary to Government,
Home, Prohibition & Excise Department,
Secretariat, Chennai - 9.

2.The District Collector & District Magistrate,
Thanjavur District, Thanjavur.

.. 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.81/2014 dated 23.11.2014 and quash the same and direct the respondents to produce the detenu namely J.Balan @ Bala S/o.Jeyaraman, aged about 36 years, detained in Central Prison, Trichirapalli before this Court and set him at liberty.

For Petitioner : Mr.N.Anandakumar

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

ORDER

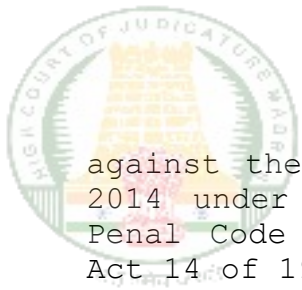
(Order of the Court was made by A.SELVAM, J.)

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.81/2014 dated 23.11.2014 by the detaining authority who has been arrayed as second respondent herein against the detenu by name J.Balan @ Bala S/o.Jeyaraman and quash the same and thereby set him at liberty forthwith.

2. The Inspector of Police, Kumbakonam Taluk 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 case:

Crime No.414/2014, Kumbakonam Taluk Police Station,
registered under Sections 147, 148, 294(b), 452, 342, 324 and
307 of the Indian Penal Code.

3. Further it is stated in the affidavit that on 24.10.2014, one Veeramani has given a complaint in Taluk Police Station, Kumbakonam



against the detenu and the same has been registered in Crime No.416 of 2014 under Sections 294(b), 427, 386, 506(ii) and 307 of the Indian Penal Code 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 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 wife 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 is not liable to be quashed.

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, 5 clear working days are available and in between column Nos.12 and 13, 2 clear working days are available and with regard to second representation in between column Nos.12 and 13, 3 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 23.11.2014 passed in P.D.No.81/2014 by the detaining authority/second respondent herein is quashed and the detenu by name Balan @ Bala is ordered to be set at liberty forthwith, unless he is required to be incarcerated in any other case.

Sd/-

Assistant Registrar(CO)

/TRUE COPY/

Sub Assistant Registrar



To

1. The Secretary to Government,
Home, Prohibition & Excise Department,
Secretariat, Chennai - 9.
2. The District Collector & District Magistrate,
Thanjavur District, Thanjavur.
3. The Superintendent,
Central Prison,
Trichy. (In duplicate to communicate the detenu)
4. The Joint Secretary to Govt.,
Public (Law & Order),
Fort St. George, Chennai - 9.
5. The Addl. Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

H.C.P. (MD) No. 1489 of 2014
09.04.2015

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