



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 06.04.2015

CORAM:

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

HABEAS CORPUS PETITION(MD)No.1493 of 2014

Chandraleela

.. Petitioner

Vs.

1.The State of Tamil Nadu,
Rep. By Secretary to the Government,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai - 9.

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

3.The Inspector of Police,
Central Police Station,
Thoothukudi.

.. 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 records relating to the detention order passed by the second respondent in H.S.(M)Confdl.No.26/2014 dated 15.11.2014 and to quash the same and direct the respondents to produce the body of the detenu, Madhankumar @ Madhan, Son of Sunairaj, aged about 21 years before this Court and set him at liberty now detained at Borstal School, Pudukkottai and pass such further or other orders.

For Petitioner : Mr.S.Deenadhayalan

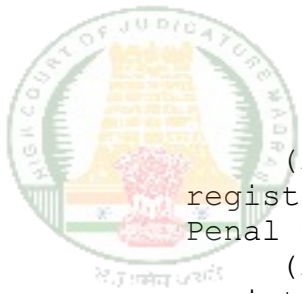
For Respondents : Mr.C.Ramesh
Additional Public Prosecutor

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 H.S.(M)Confdl.No.26/2014 dated 15.11.2014 by the detaining authority, who has been arrayed as second respondent herein against the detenu by name Madhankumar @ Madhan, Son of Sunairaj and quash the same and thereby set him at liberty forthwith.

2. The Inspector of Police, Thoothukudi Central 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.631 of 2013 Thoothukudi South Police Station registered under Sections 294(b), 323 and 506(ii) of the Indian Penal Code.

(ii) Crime No.229 of 2014 Thoothukudi South Police Station registered under Sections 147, 148, 294(b), 341, 302, 506(ii) and 120(b) of the Indian Penal Code.

(iii) Crime No.503 of 2014 Thoothukudi Central Police Station registered under Sections 147, 294(b), 452, 506(ii) of the Indian Penal Code and also under Section 4 of TNPWH Act and also under Section 3 of TNPPDL Act.

(iv) Crime No.504 of 2014 Thoothukudi Central Police Station registered under Sections 147 and 294(b) of the Indian Penal Code and also under Section 3 of TNPPDL Act.

3. Further it is stated in the affidavit that on 13.10.2014 one Krishnakumar as complainant has given a complaint to the Inspector of Police, Thoothukudi Central Police Station against the detenu and the same has been registered in Crime No.505 of 2014 under Sections 341, 294 (b), 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, 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 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 a representation has been submitted and the same has 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 representation submitted on the side of the detenu has been 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 in between Column Nos.7 to 9, twenty seven clear working days are available and in between Column Nos.12 and 13, sixteen 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 representation 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 H.S.(M)Confdl.No.26/2014 dated 15.11.2014 by the second respondent/detaining authority is quashed and consequently the respondents are directed to set the detenu viz., Madhankumar @ Madhan, Son of Sunairaj 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

ps

To

- 1.The Secretary to the Government,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai - 9.
- 2.The District Collector and District Magistrate,
Thoothukudi District,
Thoothukudi.
- 3.The Inspector of Police,
Central Police Station, Thoothukudi.
- 4.The Superintendent,
Borstal School & District Jail, Pudukottai
(In duplicate for to- communicate the detenu)
- 5.The Joint Secretary to Government of Tamil Nadu,
Public (Law & Order) Fort St. George, Chennai-9
- 6.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to MR. S.DEENADHAYALAN,ADVOCATE IN SR NO. 16843

ORDER MADE IN
H.C.P (MD)No.1493 of 2014
06.04.2015

RG.07.04.2015 3P.8C.