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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.04.2015

CORAM:

THE HONOURABLE MR.JUSTICE A.SELVAM

and

THE HONOURABLE MR.JUSTICE V.S.RAVI

HABEAS CORPUS PETITION (MD) No.1496 of 2014

Viji @ Vijayapandian @ Vijayapandi

.. Petitioner

Vs.

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

2.The Commissioner of Police,
Office of the Commissioner of Police,
Madurai City, Madurai.

3.The Superintendent of Prison,
Madurai Central Prison,
Madurai 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 No.88/BCDFGISSSV/2014, dated 08.12.2014 and quash the same and direct the respondents to produce the detenu namely Viji @ Vijayapandian @ Vijayapandi, Son of Kasi, aged about 31 years, now detained in Madurai Central Prison before this Court and set him at liberty forthwith and pass such further or other orders.

For Petitioner : Mr.R.Ramanatha Sethupathi

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 No.88/BCDFGISSSV/2014, dated 08.12.2014 by the detaining authority, who has been arrayed as second respondent herein against the detenu by name Viji @ Vijayapandian @ Vijayapandi, Son of Kasi and quash the same and thereby set him at liberty forthwith.

2. The Inspector of Police, D1 Tallakulam 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.415 of 2013 Sivagangai Town Police Station registered under Sections 294(b), 323, 324 and 506(ii) of the Indian Penal Code altered into Section 302 of the Indian Penal Code.

(ii) Crime No.960 of 2014 D1 Tallakulam Police Station registered under Sections 294(b) and 307 of the Indian Penal Code.

3. Further it is stated in the affidavit that on 08.11.2014 one Saravanan, Son of Perumal as complainant has given a complaint to the Inspector of Police, D1 Tallakulam Police Station against the detenu and the same has been registered in Crime No.1123 of 2014 under Sections 392 read with 397 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 detenu himself 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/detenu 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 the representations submitted on the side of the petitioner/detenu have 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 with regard to first representation in between Column Nos.7 to 9, four clear working days are available and in between Column Nos.12 and 13, nine clear working days are available and with regard to second representation in between Column Nos.7 to 9, four clear working days are available and in between Column Nos.12 and 13, seventeen 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 petitioner/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 No.88/BCDFGISSSV/2014, dated 08.12.2014 by the second respondent/detaining authority is quashed and consequently the



respondents are directed to set the detenu viz., Viji @ Vijayapandian @ Vijayapandi, Son of Kasi at liberty forthwith, unless he is required to be incarcerated in connection with any other case.

Sd/

Assistant Registrar(Per Admn.)

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/TRUE COPY/

Sub Assistant Registrar

To

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai - 600 009.
- 2.The Commissioner of Police,
Office of the Commissioner of Police,
Madurai City, Madurai.
- 3.The Superintendent of Prison,
Madurai Central Prison,
Madurai District.(In duplicate communicate to the detenu)
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
- 5 The Joint Secretary to Govt.,
Public (Law & Order),
Fort St.George, Chennai - 9.

+1cc to Mr.I.Sabeer Mohamed, Advocate, SR.No.18095

ORDER MADE IN
H.C.P (MD) No.1496 of 2014
08.04.2015

ps

PA/09.04.2015/3P/8C