



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.03.2015

CORAM:

THE HONOURABLE MR.JUSTICE A.SELVAM

and

THE HONOURABLE MR.JUSTICE T.MATHIVANAN

HABEAS CORPUS PETITION (MD) No.1503 of 2014

Dharma @ Prabakaran

.. Petitioner

Vs.

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

2.The District Collector and
District Magistrate,
Office of the District Collector and
District Magistrate,
Nagapattinam District,
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.55/2014, dated 06.11.2014 and quash the same and direct the respondents to produce the detenu namely Dharma @ Prabakaran, Son of Balu, aged about 33 years 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, 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 C.O.C.No.55/2014, dated 06.11.2014 by the detaining authority, who has been arrayed as second respondent herein against the detenu by name Dharma @ Prabakaran, Son of Balu and quash the same and thereby set him at liberty forthwith.



2. The Inspector of Police, Sirkazhi 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:

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(i) Crime No.990 of 2007 Chennai City, Sankar Nagar Police Station registered under Sections 302 and 392 of the Indian Penal Code.

(ii) Crime No.453 of 2013 Sirkazhi Police Station registered under Section 392 of the Indian Penal Code.

(iii) Crime No.232 of 2014 Vaitheeswarankovil Police Station registered under Sections 452, 342, 323 read with 511 of the Indian Penal Code altered into Sections 452 and 393 of the Indian Penal Code.

3. Further it is stated in the affidavit that on 28.10.2014 one Vetrivel as complainant has given a complaint in Sirkazhi Police Station against the detenu and the same has been registered in Crime No.513 of 2014 under Sections 341, 506(ii) and 392 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. Despite of repeated adjournments on the side of the respondents, counter has not been filed.

6. The learned counsel appearing for the petitioner has contended that on the side of the petitioner/detenu a representation dated 12.12.2014 has been given to the concerned authority and the same has not been disposed of and therefore the detention order in question is liable to be quashed.

7. Considering the fact that the representation submitted on the side of the petitioner/detenu has not been disposed of by the concerned authority, this Court is of the considered view that the detention order in question is liable to be quashed.

8. In fine, this Habeas Corpus Petition is allowed and the detention order passed in C.O.C.No.55/2014, dated 06.11.2014 by the second respondent/detaining authority is quashed and consequently the respondents are directed to set the detenu viz.,



Dharma @ Prabakaran, Son of Balu at liberty forthwith, unless he is required to be incarcerated in connection with any other case.

Sd/-

Assistant Registrar(A.S.,)

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/True Copy/

Sub-Assistant Registrar

To

- 1.The Principal Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai - 600 009.
 - 2.The District Collector and District Magistrate,
Office of the District Collector and District Magistrate,
Nagapattinam District, Nagapattinam.
 - 3.The Superintendent of Prison, Trichy Central Prison,
Trichy District.
 - 4.The Joint Secretary to Government of Tamilnadu,
Home (Law & order) Department, Fort St.George, Chennai-9.
 - 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.
- +1cc to Mr.R.Alagumani, Advocate, in SR. No.15092.

ORDER MADE IN
H.C.P (MD) No.1503 of 2014
26.03.2015

ps

msm 27.03.2015 p3/7c(IT)