



WEB COPY

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.1505 of 2014

M.Sudha Priya

..Petitioner

Vs.

1.The State of Tamil Nadu,
Rep. By Secretary to the Government,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai - 600 009.

2.The Commissioner of Police,
Trichy District,
Trichy.

..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 C.No.37/Detention/C.P.O/T.C/2014, dated 28.11.2014 and quash the same and direct the respondents to produce the body or person of the detenu namely Suresh alias Pattarai Suresh alias Michael, Son of Sebastian aged about 34 years (now detained at Central Prison, Trichy) before this Court and set him at liberty and pass such further or other orders.

For Petitioner : Mr.P.Kamaraj

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.No.37/Detention/C.P.O/T.C/2014, dated 28.11.2014 by the detaining authority, who has been arrayed as second respondent herein against the detenu by name Suresh alias Pattarai Suresh alias Michael, Son of Sebastian and quash the same and thereby set him at liberty forthwith.

2. The Inspector of Police, Fort Police Station, Tiruchirappalli City 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.03 of 2013 Tiruchirappalli City, Ponmalai Police Station registered under Sections 387 and 506(ii) of the Indian Penal Code.

<https://hcservices.ecourts.gov.in/hcservices/> Crime No.21 of 2014 Pudukkottai District, Mandaiyur Police Station registered under Section 302 altered into Sections 120(b), 364, 341, 323, 324, 302 and 201 of the Indian



Penal Code read with Sections 114 and 34 of the Indian Penal Code.

3. Further it is stated in the affidavit that on 21.11.2014 one Mukesh as complainant has given a complaint to the Inspector of Police, Fort Police Station, Tiruchirappalli City against the detenu and the same has been registered in Crime No.1302 of 2014 under Sections 392 read with 397 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 wife of the detenu as petitioner.

5. On the side of the respondents a detailed 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 the representations submitted on the side of the detenu are duly considered and disposed of without delay and therefore the detention order in question need not 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, five clear working days are available and in between Column Nos.12 and 13, six 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, twenty two 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 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 C.No.37/Detention/C.P.O/T.C/2014, dated 28.11.2014 by the second respondent/detaining authority is quashed and consequently the respondents are directed to set the detenu viz., Suresh alias Pattarai Suresh alias Michael, Son of Sebastian at liberty forthwith, unless he is required to be incarcerated in connection with any other case.

Sd/-

Assistant Registrar(AS)

/True copy/



To

1. THE SECRETARY TO GOVERNMENT, HOME, PROHIBITION & EXCISE DEPARTMENT,
FORT ST. GEORGE, CHENNAI.

2. THE COMMISSIONER OF POLICE, TRICHY DISTRICT, TRICHY.

3. THE SUPERINTENDENT OF POLICE, CENTRAL PRISON, TIRUCHIRAPPALLI.
(IN DUPLICATE TO COMMUNICATE THE DETENUE)

4. THE JOINT SECRETARY TO GOVT., PUBLIC (LAW & ORDER) DEPARTMENT,
FORT ST. GEORGE, CHENNAI-9.

6. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1CC to M/s.P.Kamaraj, Advocate in SR.14804

H.C.P (MD) No.1505 of 2014
26.03.2015

ps

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