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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 10.06.2015

Coram

THE HONOURABLE MR.JUSTICE A.SELVAM

and

THE HONOURABLE MR.JUSTICE V.S.RAVI

H.C.P. (MD) No.1514 of 2014

Muthulakshmi

.. Petitioner

Vs.

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

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

3.The Superintendent,
Central Prison,
Trichirapalli District.

.. Respondents

Habeas Corpus Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus to call for the records pertaining to the impugned detention order passed by the 2nd respondent made in his proceedings in C3/D.O/29/2014 dated 17.12.2014 in detaining the detenu u/s 2(f) of Tamilnadu Act 14 of 1982 as a Goonda and quash the same and direct the respondents to produce the detenu namely Mohanram S/o. Jegadeesan, male aged about 34 years who is detained in Central Prison, Trichirapalli before this Court and set him at liberty.

For Petitioner : Mr.M.Keerthi Prasana
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 C3/D.O/29/2014 dated 17.12.2014 by the detaining authority who has been arrayed as second respondent herein against the detenu by name Mohanram S/o. Jegadeesan and quash the same and thereby set him at liberty forthwith.

2. The Inspector of Police, Annamalai Nagar 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.



Substances Act, 1908 and Section 25(1B-a) of Indian Arms Act, 1959 and Section 3 of Tamilnadu Property (Prevention of Damage & Loss) Act 1992 and Sections 120(b), 212 and 307 of the Indian Penal Code.

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3. Further it is stated in the affidavit that on 02.09.2014 one Sarath Kumar S/o.Sambath Kumar as defacto complainant has given a complaint against the detenu and the same has been registered in Crime No.243 of 2014 under Sections 147, 148, 324, 307, 302 and 120(B) of the Indian Penal Code and 3 of Tamilnadu Property (Prevention of Damage & Loss) Act and 3 & 4 of Explosive Substances Act, 1908 and Sections 3(1)(r), 3(1)(s), 3(2)(v) and 3(2)(va) of SC/ST Act, 1989 with Amendment Ordinance of 2014 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 two representations are submitted and the same have 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 representations submitted on the side of the detenu have been duly 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, 6 clear working days are available and with regard to second representation in between column Nos.7 to 9, 13 clear working days are available and in between column Nos.12 to 13, 9 clear working days are available no explanation has been given on the side of the respondents with regard to such 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 17.12.2014 passed in C3/D.O/29/2014 by the detaining authority/second respondent herein is quashed and the detenu



by name Mohanram is ordered to be set at liberty forthwith, unless he is required to be incarcerated in any other case.

Sd/-

Assistant Registrar(AS)

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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 District Collector & District Magistrate,
Cuddalore District.
- 3.The Superintendent,
Central Prison, Trichirapalli District.
4. The Joint Secretary to Govt.of Tamilnadu,
Public (Law & Order)Dept.,
Fort.St.George,Chennai - 9.
- 5.The Addl.Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.K.M.Karunakaran,Advocate SR.No.29509

H.C.P. (MD) No.1514 of 2014
10.06.2015

mj

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