



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 20.04.2015

CORAM:

THE HONOURABLE MR.JUSTICE A.SELVAM

and

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

HABEAS CORPUS PETITION(MD)No.1519 of 2014

Vijayan,
S/o.Balu alias Shanmugavel,
Varangunaramapuram, Veerakeralampudur Taluk,
Tirunelveli District.
(Now confined at Palayamkottai
Central Prison) .. Petitioner

Vs.

- 1.The Secretary to the 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,
Tirunelveli District, Tirunelveli.
- 3.The Superintendent of Prison,
Palayamkottai Central Prison,
Tirunelveli 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 M.H.S.Confdl No.89/2014, dated 07.12.2014 and quash the same and direct the respondents to produce the detenu namely Vijayan, Son of Balu alias Shanmugavel, aged about 29 years detained in Palayamkottai Central Prison before this Court and set him at liberty and pass such further or other orders.

For Petitioner : Mr.B.Dhanasekaran
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 M.H.S.Confdl No.89/2014, dated 07.12.2014 by the detaining authority, who has been arrayed as second respondent herein against the detenu by name Vijayan, Son of Balu alias Shanmugavel and quash the same and thereby set him at liberty forthwith.



2. The Inspector of Police, Surandai 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.95 of 2013 Surandai Police Station registered under Sections 294(b), 324 and 506(i) of the Indian Penal Code.

(ii) Crime No.199 of 2014 Surandai Police Station registered under Sections 294(b), 323, 427 and 506(i) of the Indian Penal Code.

(iii) Crime No.272 of 2014 Surandai Police Station registered under Sections 147, 148, 341, 294(b), 324, 307 and 379(NH) of the Indian Penal Code.

(iv) Crime No.273 of 2014 Uthumalai Police Station registered under Sections 341, 294(b), 387 and 506(ii) of the Indian Penal Code.

3. Further it is stated in the affidavit that on 18.11.2014, one Sudalaiyandi as complainant has given a complaint in Surandai Police Station against the detenu and the same has been registered in Crime No.298 of 2014 under Sections 294(b) 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 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 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 are 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, seven clear working days are available and in between Column Nos.12 and 13, four clear working days are available and with regard to second representation in between Column Nos.7 to 9, six clear working days are available and in between Column Nos.12 and 13, fourteen clear working days are available and 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 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 M.H.S.Confdl.No.89/2014, dated 07.12.2014 by the second respondent/detaining authority is quashed and consequently the respondents are directed to set the detenu viz., Vijayan, Son of Balu alias Shanmugavel at liberty forthwith, unless he is required to be incarcerated in connection with any other case.

Sd/-

Assistant Registrar(T&P)

/True copy/

Sub Assistant Registrar

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To

1.The Secretary to the 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,
Tirunelveli District,
Tirunelveli.

3.The Superintendent of Prison,
Palayamkottai Central Prison,
Tirunelveli District.

4.The Joint Secretary Public (Law & Order)
Government of Tamil Nadu
Secretariat, Chennai-600 009.

5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to MR.B.DHANASEKARAN,ADVOCATE IN SR NO.20410

ORDER MADE IN
H.C.P (MD) No.1519 of 2014
20.04.2015

rg.22.04.2015

3p/7c.