



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 09.04.2015

Coram

THE HONOURABLE MR.JUSTICE A.SELVAM
and
THE HONOURABLE MR.JUSTICE V.S.RAVI

H.C.P. (MD) No.1546 of 2014

Kaliraja @ Rajapandi

.. Petitioner

Vs.

1.The Principal Secretary to Government,
Home, Prohibition & Excise (IX) Department,
Secretariat, Chennai - 9.

2.The District Collector & District Magistrate,
O/o.District Collector & District Magistrate,
Virudhunagar District.

3.The Superintendent of Prison,
Madurai Central Prison,
Madurai 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 entire records pertaining to the impugned detention order passed by the 2nd respondent in Cr.M.P.No.26/2014 (Goonda) dated 11.12.2014 and quash the same and direct the respondents to produce the body of the detenu namely Kaliraja @ Rajapandi S/o.Mandira Thevar aged about 28 years, detained in Central Prison, Madurai before this Court and set him at liberty.

For Petitioner : Mr.B.Dhanasekaran

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 Cr.M.P.No.26/2014 dated 11.12.2014 by the detaining authority who has been arrayed as second respondent herein against the detenu by Kaliraja @ Rajapandi S/o.Mandira Thevar and quash the same and thereby set him at liberty forthwith.



2. The Inspector of Police, Sivakasi Town 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.151/2009, Malli Police Station, registered under Sections 341, 324, 506(ii) of the Indian Penal Code and under Section 3(i)(x) of SC/ST Act.

(ii) Crime No.192/2009, Malli Police Station, registered under Section 436 of the Indian Penal Code.

(iii) Crime No.154/2010, Tiruchuli Police Station, registered under Section 392 of the Indian Penal Code.

(iv) Crime No.87/2014, Sivakasi Police Station, registered under Sections 341, 294(b), 324, 336 of the Indian Penal Code r/w 3(i)(x) of SC/ST Act @ under Section 341, 294(b), 324, 326, 336 of the Indian Penal Code r/w under Section 3(i)(x) of SC/ST Act.

(v) Crime No.307/2010, Thiruthangal Police Station, registered under Sections 341, 307 and 506(ii) of the Indian Penal Code.

3. Further it is stated in the affidavit that on 28.10.2014, one Subbiah has given a complaint in Sivakasi Town Police Station against the detenu and the same has been registered in Crime No.588 of 2014 under Sections 341 and 302 of the Indian Penal Code and ultimately requested the detaining authority to invoke Act 14 of 1982 against the detenu.

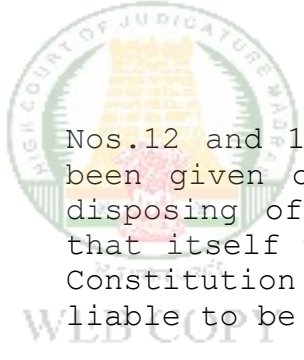
4. The detaining authority after considering the averments made in the affidavit coupled with other connected documents has derived subjective satisfaction to the effect that the detenu is a 'habitual offender' and ultimately branded him as 'goonda' by way of passing the impugned detention order and in order to quash the same, the present 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 all the representations submitted on the side of the detenu have been duly 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, 8 clear working days are available and in between column Nos.12 and 13, 18 clear working days are available. With regard to second representation in between column Nos.7 to 9, 6 clear working days are available and in between column



Nos.12 and 13, 9 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 representation 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 11.12.2014 passed in Cr.M.P.No.26/2014 by the detaining authority/second respondent herein is quashed and the detenu by name Kaliraja @ Rajapandi is ordered to be set at liberty forthwith, unless he is required to be incarcerated in any other case.

Sd/-
Assistant Registrar

\\True copy\\

Sub Assistant Registrar

To

- 1.The Principal Secretary to Government,
Home, Prohibition & Excise (IX) Department,
Secretariat, Chennai - 9.
- 2.The District Collector & District Magistrate,
O/o.District Collector & District Magistrate,
Virudhunagar District.
- 3.The Superintendent of Prison,
Madurai Central Prison,
Madurai District.(In duplicate to communicate the detenu)
- 4 The Joint Secretary to Government,
Public (Law & Order), Fort St.George, Chennai - 9.
- 5.The Addl.Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc TO M/S.S.MALAIKANI, ADVOCATE SR.NO. 18463

TS/13.04.2015/3P-8C

H.C.P. (MD) No.1546 of 2014

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