



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.04.2015

CORAM:

THE HONOURABLE MR.JUSTICE A.SELVAM
and

THE HONOURABLE MR.JUSTICE V.S.RAVI

HABEAS CORPUS PETITION(MD)No.1553 of 2014

Pothiraj

.. Petitioner

Vs.

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

2.The District Collector and
District Magistrate,
Office of the District Collector and
District Magistrate, Virudhunagar District.

3.The Superintendent of Prison,
Madurai Central Prison,
Madurai 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 second respondent in Cr.M.P.No.27/2014, dated 15.12.2014 and quash the same and direct the respondents to produce the detenu namely Pothiraj, Son of Karuppsamy, aged about 37 years detained in Madurai Central Prison before this Court and set him at liberty and pass such further or other orders.

For Petitioner : Mr.B.Dhanasekaran

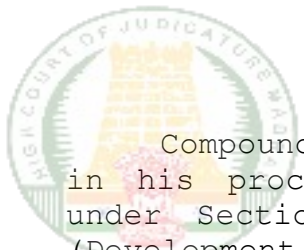
For Respondents : Mr.C.Ramesh Additional Public Prosecutor

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 Cr.M.P.No.27/2014, dated 15.12.2014 by the detaining authority, who has been arrayed as second respondent herein against the detenu by name Pothiraj, Son of Karuppsamy and quash the same and thereby set him at liberty forthwith.

2. The Inspector of Police, Vachakarapatti 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:



Compounding order of the Revenue Divisional Officer, Sivakasi issued in his proceedings in R.O.C.No.B4/7894/13, dated 05.12.2013 registered under Sections 21(1), 38(A)(1) of the Tamil Nadu Mines and Minerals (Development and Regulations) Act, 1957.

3. Further it is stated in the affidavit that on 09.12.2014, the detenu has committed sand theft and consequently, a case has been registered in Crime No.319 of 2014 under Sections 379 of the Indian Penal Code read with 21(V), 23 of the Tamil Nadu Mines and Minerals (Development and Regulations) Act, 1957 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 professional Sand Offender and ultimately branded him as 'Sand Offender' 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 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 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, eight clear working days are available and in between Column Nos.12 and 13, eighteen clear working days are available and with regard to second representation in between Column Nos.7 to 9, seven 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 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 Cr.M.P.No.27/2014, dated 15.12.2014 by the second respondent/detaining authority is quashed and consequently the respondents are directed to set the detenu viz., Pothiraj, Son of Karuppsamy at liberty forthwith, unless he is required to be incarcerated in connection with any other case.



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Home, Prohibition and Excise (IX) Department,
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Chennai - 600 009.

2.The District Collector and
District Magistrate,
Office of the District Collector and
District Magistrate,
Virudhunagar District.

3.The Superintendent of Prison,
Madurai Central Prison,
Madurai District.

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

+1cc to M/S. S.Mali Kani, Advocate in SR.No. 18097

TS/09.04.2015/2P-6C

ORDER MADE IN
H.C.P (MD) No.1553 of 2014

08.04.2015