



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 03.06.2015

Coram

THE HONOURABLE MR.JUSTICE A.SELVAM

and

THE HONOURABLE MR.JUSTICE V.S.RAVI

H.C.P. (MD) No.100 of 2015

Prabhakaran

.. Petitioner

Vs.

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

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

.. 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 detention order passed by the 2nd respondent in Detention Order No.03/2015/C3 dated 10.01.2015 and quash the same and direct the respondents to produce the body of the detenu namely Prakash S/o.Periyakaruppan, aged 27 years, now detained in Central Prison, Madurai before this Court and set him at liberty.

For Petitioner : Mr.S.Mahendrapathy

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 Detention Order No.03/2015/C3 dated 10.01.2015 by the detaining authority who has been arrayed as second respondent herein against the detenu by name Prakash S/o.Periyakaruppan and quash the same and thereby set him at liberty forthwith.

2. The Inspector of Police, Cumbum North Police Station as sponsoring authority has submitted an affidavit to the detaining authority, wherein it is stated that on 15.01.2014 one Eswari as defacto complainant has given a complaint in Cumbum North Police Station and the same has been registered in Crime No.20 of 2014 under Section 392 of the Indian Penal code and ultimately requested the detaining authority to invoke Act 14 of 1982 against the detenu.

3. 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 in the habit of committing crime 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 brother of the detenu as petitioner.

4. 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.

5. 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.

6. The learned Additional Public Prosecutor has represented that all the representations submitted on the side of the detenu are duly disposed of without delay and therefore, the detention order in question does not call for any interference.

7. 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, 63 clear working days are available and in between column Nos.12 and 13, 5 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 and 13, 13 clear working days are available and no explanation has been given on the side of the respondents with regard to inordinate 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.

8. In fine, this Habeas Corpus Petition is allowed and the detention order dated 10.01.2015 passed in Detention Order No.03/2015/C3 by the detaining authority/second respondent herein is quashed and the detenu by name Prakash is ordered to be set at liberty forthwith, unless he is required to be incarcerated in any other case.

Sd/

Assistant Registrar(Per.Admn.)

/True copy/

Sub Assistant Registrar

To

- 1.The Secretary to Government,
Home, Prohibition & Excise Department, Secretariat, Chennai - 9.
 - 2.The District Collector & District Magistrate, Theni District, Theni.
 - 3.The Superintendent, Central Prison, Madurai.
 - 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. S. Mahendrapathy, Advocate SR.No.27369

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