



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 04.06.2015

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

H.C.P.(MD)No.104 of 2015

Silver Star

.. Petitioner

Vs.

1.The State of Tamil Nadu,
rep.by its Secretary to Government,
Home, Prohibition & Excise Department,
Fort St., George,, Chennai - 9.

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

.. Respondents

Habeas Corpus Petition filed under Article 226 of the Constitution of India praying to call for the records relating to the Detention Order passed by the 2nd respondent in H.S.(M) Confdl. No.42/2014 dated 19.12.2014 and quash the same and direct the respondents to produce the body of the detenu namely Jude @ Judeskumar S/o.Silver Star aged about 28 years, now detained at Central Prison, Palayamkottai before this Court and set him at liberty.

For Petitioner : Mr.N.Anadakumar

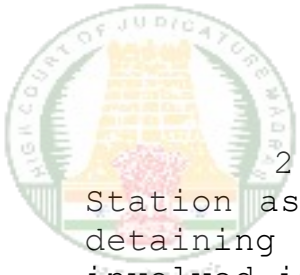
For Respondents : Mr.C.Ramesh

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 H.S.(M) Confdl. No.42/2014 dated 19.12.2014 by the detaining authority who has been arrayed as second respondent herein against the detenu by name Jude @ Judeskumar S/o.Silver Star and quash the same and



2. The Inspector of Police, Thoothukudi South 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:

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(i) Crime No.435 of 2013, Thoothukudi North Police Station, registered under Sections 341, 294(b), 387, 307 and 506(ii) of the Indian Penal Code.

(ii) Crime No.645 of 2014, Thoothukudi South Police Station, registered under Sections 3 of TNPPDL Act @ 147, 148, 153(A) of the Indian Penal Code and 3 of TNPPDL Act.

(iii) Crime No.660 of 2014, Thoothukudi South Police Station, registered under Sections 342, 294(b), 307 and 506(ii) of the Indian Penal Code.

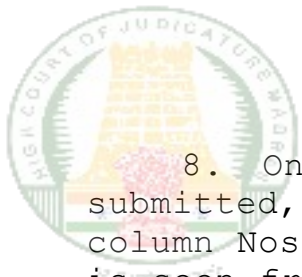
3. Further it is stated in the affidavit that on 10.10.2014 one Sathya as defacto complainant has given a complaint against the detenu and one Rajan and the same has been registered in Crime No.664 of 2014 under Sections 294(b), 341, 387 and 506 (ii) of the Indian Penal Code and ultimately requested 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 Petition has been filed by the father of the detenu 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 a representation has been submitted and the same has 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 representation submitted on the side of the detenu has been duly disposed of without delay and therefore, the detention order in question is not liable to be quashed.



8. On the side of the respondents, a proforma has been submitted, wherein it has been clearly stated that in between column Nos.7 to 9, 35 clear working days are available. Further it is seen from the proforma that several remainders have been issued to the detaining authority and he has shown no response. Further in between column Nos.12 and 13, 7 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 representation made 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 19.12.2014 passed in H.S.(M) Confdl. No.42/2014 by the detaining authority/second respondent herein is quashed and the detenu by name Jude @ Judeskumar is ordered to be set at liberty forthwith, unless he is required to be incarcerated in any other case.

Sd/-

Assistant Registrar(AS)

/True copy/

Sub Assistant Registrar

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To

- 1.The Secretary to Government,
Home, Prohibition & Excise Department, Fort St., George, Chennai-9.
- 2.The District Collector & District Magistrate,
Thoothukudi District, Thoothukudi.
- 3.The Superintendent Central Prison, Palayamkottai.
- 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.

H.C.P. (MD) No.104 of 2015

04.06.2015

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