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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.06.2015

CORAM:

THE HONOURABLE MR.JUSTICE A.SELVAM

and

THE HONOURABLE MR.JUSTICE V.S.RAVI

HABEAS CORPUS PETITION(MD)No.106 of 2015

Chinnammal

.. Petitioner

Vs.

1.The District Collector and District Magistrate,
Thoothukudi District,
Thoothukudi.

2.The State rep. By
The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.

3.The Inspector of Police,
Sathankulam Police Station,
Thoothukudi 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 direct the respondents herein to produce the detenu Subramanian, Son of Paramasivan @ Paramasivan Thevar, aged 29 years, who has been termed as "Goonda" who is now confined in Central Prison, Palayamkottai and call for records in H.S(M) Confdl.No.28/2014, dated 28.10.2014 passed by the first respondent herein and set aside the same and set the detenu at liberty.

For Petitioner
For Respondents

: Mr.S.Angappan
: 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 H.S(M) Confdl.No.28/2014, dated 28.10.2014 by the detaining authority, who has been arrayed as first respondent herein against the detenu by name Subramanian, Son of Paramasivan @ Paramasivan Thevar and quash the same and thereby set him at liberty forthwith.

2. The Inspector of Police, Sathankulam 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.275 of 2013 Sathankulam Police Station registered under Sections 294(b) and 506(ii) of the Indian Penal Code and also under Section 3 of TNPPDL Act.



(ii) Crime No.99 of 2014 Sathankulam Police Station registered under Sections 147, 148, 294(b), 387 and 506(ii) of the Indian Penal Code.

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(iii) Crime No.204 of 2014 Sathankulam Police Station registered under Section 307 of the Indian Penal Code altered into Sections 294(b), 342, 307, 506(ii) of the Indian Penal Code read with 3(1)r,s, 3(2)(va) SC/ST (POA) Amendment Ordinance Act, 2014 and 3(2)(v) of SC/ST (POA) Act, 1989.

(iv) Crime No.318 of 2014 Sathankulam Police Station registered under Sections 294(b), 387 and 506(ii) of the Indian Penal Code.

3. Further it is stated in the affidavit that on 12.10.2014 one Raja Senathipathy as defacto complainant has given a complaint against the detenu in Sathankulam Police Station and the same has been registered in Crime No.400 of 2014 under Sections 294(b), 387, 307 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 perusing 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 mother 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 represented that the representation submitted on the side of the detenu has been 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 in between Column Nos.7 to 9, eleven clear working days are available and in between Column Nos.12 and 13, ten 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 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 H.S(M) Confdl.No.28/2014, dated 28.10.2014 by the first respondent/detaining authority is quashed and consequently the respondents are directed to set the detenu viz., Subramanian, Son of Paramasivan @ Paramasivan Thevar at liberty forthwith, unless he is required to be incarcerated in connection with any other case.

Sd/-

Assistant Registrar

/True copy/

Sub Assistant Registrar

To

1.The District Collector and District Magistrate,
Thoothukudi District,
Thoothukudi.

2.The Secretary to Government of Tamil Nadu,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.

3.The Inspector of Police,
Sathankulam Police Station,
Thoothukudi District.

4.The Superintendent,
Central Prison,
Palayamkottai, Tirunelveli District
in duplicate to communicate the detenu)

5.The Joint Secretary to Govt.of Tamilnadu,
Public (Law & Order)Dept.,
Fort.St.George,Chennai - 9.

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

+1cc to Mr.M.S.Jeyakarthik,Advocate SR.No.32601

ORDER MADE IN
H.C.P (MD) No.106 of 2015
22.06.2015

ps

PA/KBM/23.06.2015/3P/9C