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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.107 of 2015

Pandi @ Military Pandi

.. Petitioner

Vs.

1.The Secretary to Government,
Home, Prohibition and Excise Department,
State of Tamil Nadu,
Secretariat,
Fort St. George,
Chennai - 600 009.

2.The District Collector and
District Magistrate,
O/o.District Collector and
District Magistrate,
Dindigul District,
Dindigul.

3.The Superintendent of Prison,
Special Prison for Women,
Tiruchirappalli 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 respondent No.2 Detention Order No.01/2015, dated 13.01.2015 and quash the same and direct the respondents to produce the body or person of the detenu by name Shanthi, Wife of Pandi @ Military Pandi, aged about 47 years, now detained in Special Prison for Women, Tiruchirappalli before this Court and set her at liberty forthwith and pass such further or other orders.

For Petitioner : Mr.R.Alagumani

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 Detention Order No.01/2015, dated 13.01.2015 by the detaining authority, who has been arrayed as second respondent herein against the detenu by name Shanthi, Wife of Pandi @ Military Pandi and quash the same and thereby set her at liberty forthwith.



2. The Inspector of Police, Prohibition Enforcement Wing, Dindigul 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:

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Crime No.65 of 2014 Prohibition Enforcement Wing, Dindigul registered under Sections 4(1)(a), 4(1)(aaa), 4(1)(A) of Tamil Nadu Prohibition Act and also under Sections 420, 471 and 476 of the Indian Penal Code.

3. Further it is stated in the affidavit that on 27.12.2014, the Inspector of Police and others have found the detenu in possession of illicit arrack and consequently, a case has been registered against her in Crime No.983 of 2014 under Sections 4(1)(A), 4(1)(aaa) of Tamil Nadu Prohibition Act and also under section 7 of Tamil Nadu Rectified Spirit Rules, 2000 and also under Section 420 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 'Boot Legger' 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 husband of the detenu 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 has contended that on the side of the detenu two representations are 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 represented that the representations submitted on the side of the detenu have 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 with regard to first representation in between Column Nos.7 to 9, six clear working days are available and in between Column Nos.12 and 13, sixteen clear working days are available and with regard to second representation in between Column Nos.7 to 9, nine 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 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 Detention Order No.01/2015, dated 13.01.2015 by the second respondent/detaining authority is quashed and consequently the respondents are directed to set the detenu viz., Shanthi, Wife of Pandi @ Military Pandi at liberty forthwith, unless she is required to be incarcerated in connection with any other case.

Sd/-

Assistant Registrar(CO)

/True copy/

Sub Assistant Registrar

To

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
State of Tamil Nadu, Secretariat,
Fort St. George, Chennai - 600 009.
- 2.The District Collector and
District Magistrate,
O/o.District Collector and
District Magistrate,
Dindigul District,
Dindigul.
- 3.The Superintendent of Prison,
Special Prison for Women,
Tiruchirappalli District. (in duplicate to communicate the detenu)
- 4 The Joint Secretary to Govt.of Tamilnadu,
Public (Law & Order)Dept.,
Fort.St.George,Chennai - 9.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to MR.R.Alagumani,Advocate SR.No.32840

ORDER MADE IN
H.C.P (MD) No.107 of 2015
22.06.2015

ps

PA/KBM/23.06.2015/3P/8C