



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 29.04.2015

Coram

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

H.C.P. (MD) No.109 of 2015

Muthumeri

.. Petitioner

Vs.

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

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

.. 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 second respondent in Cr.M.P.No.01/2015 dated 17.01.2015 in detaining the detenu under Section 2 (f) of Tamilnadu Act 14 of 1982 as a 'Goonda' and quash the same and direct the respondents to produce the detenu namely Maickelraj S/o.Kuzhanthaisamy, male aged 43 years, now detained in Central Prison, Tiruchirapalli before this Court and set him at liberty.

For Petitioner : Mr.K.M.Karunakaran

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 Cr.M.P.No.01/2015 dated 17.01.2015 by the detaining authority who has been arrayed as second respondent herein against the detenu by name Maickelraj S/o.Kuzhanthaisamy and quash the same and thereby set him at liberty forthwith.

2. The Inspector of Police, Jayankondam 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:



Crime No.342 of 2014, Meensurutty Police Station registered under Section 392 of the Indian Penal Code.

Further it is stated in the affidavit that one Ramachandran has given a complaint against the detenu in Jayankondam Police Station and the same has been registered in Crime No.389 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 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 wife of the detenu as petitioner.

4. 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.

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 contended that the representations submitted on the side of the detenu have been duly disposed of without delay and therefore, the detention order in question need not be quashed.

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, 9 clear working days are available and in between column Nos.12 to 13, 9 clear working days are available and with regard to second representation in between column Nos.7 to 9, 27 clear working days are available and in between column Nos.12 to 13, 7 clear working days are available and no explanation has been given on the side of the respondents with regard to such 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 17.01.2015 passed in Cr.M.P.No.01/2015 by the detaining authority/second respondent herein is quashed and the detenu by name Maickelraj is ordered to be set at liberty forthwith, unless he is required to be incarcerated in any other case.

Sd/-
Assistant Registrar



To

- 1.The Secretary to Government,
Home, Prohibition & Excise Department,
Secretariat, Chennai - 9.
2. The Joint Secretary to the Government,
Public (Law & Oder), Fort St.George, Chennai - 9
- 3.The District Collector & District Magistrate,
Ariyalur, Ariyalur District,
- 4.The Addl.Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
5. The Superintendent, Central Prison, Trichy.

+lcc to Mr.K.M.KARUNAKARAN, Advocate, in SR. No. 23874

TS/04.05.2015/3P-7C

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