



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.04.2015

CORAM:

WEB COPY

**THE HONOURABLE MR.JUSTICE A.SELVAM
and**

THE HONOURABLE MR.JUSTICE V.S.RAVI

HABEAS CORPUS PETITION(MD)No.115 of 2015

M.Tamil Selvi

.. Petitioner

Vs.

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

2.The Commissioner of Police,
Office of the Commissioner of Police,
Tiruchirappalli City,
Tiruchirappalli.

3.The Superintendent of Prison,
Tiruchirappalli Central Prison,
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 in C.No.02/detention/C.P.O/T.C/2015, dated 19.01.2015 and quash the same and direct the respondents to produce the body or person of the detenu by name Kumaran @ Muthamil Kumaran, Son of Rajan, aged 26 years, lodged in Tiruchirappalli Central Prison before this Court and set him 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 C.No.02/detention/C.P.O/T.C/2015, dated 19.01.2015 by the detaining authority, who has been arrayed as second respondent herein against the detenu by name Kumaran @ Muthamil Kumaran, Son of Rajan and quash the same and thereby set him at liberty forthwith.



2. The Inspector of Police, Cantonment Police Station, Tiruchirappalli Town 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:

WEB COPY

(i) Crime No.102 of 2014 Tiruchirappalli City - Woraiyur (Crime) Police Station registered under Sections 417, 468, 471, 506(i) and 511 of the Indian Penal Code.

(ii) Crime No.116 of 2014 Tiruchirappalli City - Woraiyur (Crime) Police Station registered under Sections 417, 468, 471, 511, 392 of the Indian Penal Code read with Section 397 of the Indian Penal Code.

(iii) Crime No.319 of 2014 Tiruchirappalli City - Sessions Court Police Station registered under Sections 147, 148, 302 of the Indian Penal Code read with 120(b) of the Indian Penal Code.

(iv) Crime No.04 of 2015 Tiruchirappalli City - Sessions Court Police Station registered under Sections 294(b), 427, 323 and 506(ii) of the Indian Penal Code.

3. Further it is stated in the affidavit that on 04.01.2015 one Saravanan as defacto complainant has given a complaint in Cantonment Police Station against the detenu and the same has been registered in Crime No.03 of 2015 under Section 392 read with 397 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 Habeas Corpus Petition has been filed by the wife 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 have 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 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.

8. In the counter filed on the side of the respondents, it has been clearly stated that on the side of the detenu two representations are submitted and in calling for remarks with regard to each representation, seven days delay has occurred and no explanation has been given on the side of the respondents 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 C.No.02/detention/C.P.O/T.C/2015, dated 19.01.2015 by the second respondent/detaining authority is quashed and consequently the respondents are directed to set the detenu viz., Kumaran @ Muthamil Kumaran, Son of Rajan at liberty forthwith, unless he is required to be incarcerated in connection with any other case.

Sd/-

Assistant Registrar(C.O.,)

/True Copy/

Sub-Assistant Registrar

To

- 1.The Secretary to Government,
State of Tamil Nadu, Home, Prohibition and Excise Department,
Fort St. George, Chennai - 600 009.
 - 2.The Commissioner of Police,
Office of the Commissioner of Police,
Tiruchirappalli City, Tiruchirappalli.
 - 3.The Superintendent of Prison,
Tiruchirappalli Central Prison, Tiruchirappalli District.
[IN DUPLICATE TO COMMUNICATE THE DETENU]
 - 4.The Joint Secretary to Government of Tamilnadu,
Public (Law & order) Department, Fort St.George, Chennai-9.
 - 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.
- +1cc to Mr.R.Alagumani, Advocate, in SR. No.23140.