



WEB COPY

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.129 of 2015

Maheswari

.. Petitioner

Vs.

1.The District Collector & District Magistrate,
Pudukkottai District, Pudukkottai

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

.. 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 first respondent in P.D.O.No.21/2014 dated 25.12.2014 and quash the same as illegal and direct the respondents to produce of the detenu namely Arunprakash S/o.Vairavan, now detained in Central Prison, Tiruchirapalli before this Court and set him at liberty.

For Petitioner : Mr.S.J.Chakkaravarthy

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 P.D.O.No.21/2014 dated 25.12.2014 by the detaining authority who has been arrayed as first respondent herein against the detenu by name Arunprakash S/o.Vairavan and quash the same and thereby set him at liberty forthwith.

2. The Sub Inspector of Police, Ponnamaravathi 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.280 of 2013, Sivagangai Town Police Station registered under Sections 454 and 380 of the Indian Penal Code.



(ii) Crime No.303 of 2013, Madhagupatti Police Station registered under Sections 394 and 393 of the Indian Penal Code.

(iii) Crime No.816 of 2013, Sivagangai Town Police Station registered under Section 379 of the Indian Penal Code.

(iv) Crime No.877 of 2013, Sivagangai Town Police Station registered under Section 392 of the Indian Penal Code.

Further it is stated in the affidavit that on 17.10.2014 one Chidambaram S/o.Kannappan has given a complaint against the detenu in Ponnamaravathi Police Station and the same has been registered in Crime No.228 of 2014 under Section 302 of the Indian Penal Code and subsequently altered into sections 120(b), 109 and 396 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 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.

6. 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 need not be quashed.

7. 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, 13 clear working days are available and in between column Nos.12 to 13, 10 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 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 25.12.2014 passed in P.D.O.No.21/2014 by the detaining authority/first respondent herein is quashed and the detenu by name Arunprakash S/o.Vairavan 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\\



To

1. THE DISTRICT COLLECTOR AND DISTRICT MAGISTRATE, PUDUKKOTTAI DISTRICT,
PUDUKKOTTAI
2. THE SECRETARY TO GOVERNMENT HOME PROHIBITION AND EXCISE DEPARTMENT,
FORT ST. GEORGE, CHENNAI
3. THE ADDL. PUBLIC PROSECUTOR, MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.
4. THE SUPERINTENDENT OF CENTRAL PRISON, TIRUCHIRAPPALLI
5. THE SECRETARY TO GOVT. PUBLIC (LAW & ORDER) DEPARTMENT FORT ST. GEORGE,
CHENNAI-9

+1cc to M/S. EDDY & EMBOSS, ADVOCATE SR.NO.23508

H.C.P. (MD) No.129 of 2015
29.04.2015

MJ

NA/04/05/2015/P3/7C