



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 15.04.2015

Coram

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

H.C.P. (MD) No.130 of 2015

M.Malathi

.. Petitioner

Vs.

- 1.The State of Tamilnadu
rep.by its Secretary to Government,
Home, Prohibition & Excise Department,
Secretariat, Chennai - 9.
 - 2.The District Collector & District Magistrate, Collectorate,
Tirunelveli District, Tirunelveli.
 - 3.The Superintendent of Central Prison,
Palayamkottai Central Prison,
Tirunelveli 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 impugned detention order passed by the 2nd respondent in M.H.S.Confdl.No.71/2014 dated 26.09.2014 and quash the same as illegal and produce the petitioner's husband named Mahesh @ Vannamahesh @ Marimuthu (38/15), now detained in Central Prison, Palayamkottai, Tirunelveli District before this Court and set him at liberty.

For Petitioner : Mr.R.Rajeshkumar

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 M.H.S.Confdl.No.71/2014 dated 26.09.2014 by the detaining authority who has been arrayed as second respondent herein against the detenu by name Mahesh @ Vannamahesh @ Marimuthu S/O.Sudaimuthu and quash the same and thereby set him at liberty forthwith.



2. The Inspector of Police, Veeravanallur 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.92/2013, Ambasamudram Police Station, registered under Sections 302 the Indian Penal Code altered into sections 120(b), 109, 114 and 302 and r/w 34 of the Indian Penal Code.

(ii) Crime No.331/2013, Suthamalli Police Station, registered under Sections 302 the Indian Penal Code altered to 302 r/w 120(b), 212 of the Indian Penal Code and 3(2)(v) of SC/ST Act, 1989 r/w 109 of the Indian Penal code.

(iii) Crime No.136/2014, Suthamalli Police Station, registered under Sections 294(b), 307 and 506(ii) of the Indian Penal Code

(iv) Crime No.208/2014, Veeravanallur Police Station, registered under Section 392 of the Indian Penal Code.

3. Further it is stated in the affidavit that on 04.09.2014, one Pitchaikannu as complainant has given a complaint in Veeravanallur Police Station against the detenu and the same has been registered in Crime No.215 of 2014 under Sections 294(b), 386 and 506(ii) of the Indian Penal Code and ultimately requested the detaining authority to invoke Act 14 of 1982 against the detenu.

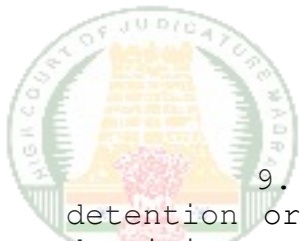
4. The detaining authority after considering the averments made in the affidavit and other connected documents has derived subjective satisfaction to the effect that the detenu is a 'habitual offender' and ultimately branded him as 'goonda' by way of passing the impugned detention order and in order to quash the same, the present 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 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 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 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, 6 clear working days are available and in between column Nos.12 and 13, 6 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.



9. In fine, this Habeas Corpus Petition is allowed and the detention order dated 26.09.2014 passed in M.H.S.Confdl.No.71/2014 by the detaining authority/second respondent herein is quashed and the detenu by name Mahesh @ Vannamahesh @ Marimuthu is ordered to be set at liberty forthwith, unless he is required to be incarcerated in any other case.

Sd/
Assistant Registrar

/True copy/

sub Assistant Registrar(c.s)

To

- 1.The Secretary to Government,
Home, Prohibition & Excise Department,
Secretariat, Chennai - 9.
- 2.The District Collector & District Magistrate,
Tirunelveli District, Tirunelveli.
- 3.The Superintendent of Central Prison,
Palayamkottai Central Prison,
Tirunelveli District.
4. The Joint Secretary to the Government,
Public (Law & Order) Fort St. George, Chennai - 600 009.
- 5.The Addl.Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.
6. The Inspector of Police, Veeravanallur Police Station, Madurai.

TS/17.04.2015/3P-7C

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