



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.04.2015

CORAM:

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

**and**

**THE HONOURABLE MR.JUSTICE V.S.RAVI**

HABEAS CORPUS PETITION(MD)No.132 of 2015

Solochana

.. Petitioner

Vs.

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

2.The District Collector and  
District Magistrate,  
Kanyakumari District,  
At Nagercoil.

3.The Inspector of Police,  
Thiruvattar Police Station,  
Kanyakumari 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 records, relating to the proceedings of the detention order passed by the second respondent in P.D.No.16/2014, dated 21.07.2014 and to quash the same and direct the respondents to produce the body of the detenu Rajakumar, Son of Amose, aged 24 years before this Court and set him at liberty, now detained at Central Prison Palayamkottai and pass such further or other orders.

For Petitioner : Mr.R.Alagumanai

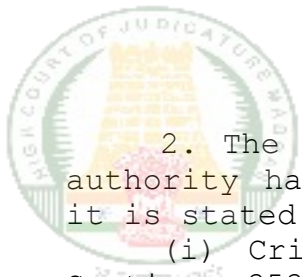
For Respondents : Mr.C.Ramesh

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 P.D.No.16/2014, dated 21.07.2014 by the detaining authority, who has been arrayed as second respondent herein against the detenu by name Rajakumar, Son of Amose, and quash the same and thereby set him at liberty forthwith.



2. The Inspector of Police, Thiruvattar 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.510 of 2012 Arumanai Police Station registered under Sections 353 and 379 of the Indian Penal Code read with Section 4(1-A) read with Section 21(1) of Tamil Nadu Mines and Minerals (Development and Regulation) Act, 1957.

(ii) Crime No.471 of 2013 Arumanai Police Station registered under Sections 147, 341, 294(b) and 506(i) of the Indian Penal Code altered into Sections 341, 294(b), 323 and 506(i) of the Indian Penal Code.

(iii) Crime No.894 of 2013 Thuckalay Police Station registered under Sections 294(b), 307, 506(ii), 353, 379 of the Indian Penal Code and also under Sections 21 and 22 of Tamil Nadu Mines and Minerals (Development and Regulation) Act, 1957.

(iv) Crime No.201 of 2014 Thiruvattar Police Station registered under Sections 294(b) and 323 of the Indian Penal Code altered into Sections 294(b) and 325 of the Indian Penal Code.

(v) Crime No.218 of 2014 Kaliyakkavilai Police Station registered under Sections 294(b), 353, 307 and 379 of the Indian Penal Code and also under Section 4(1-A) read with Section 21(1) of Tamil Nadu Mines and Minerals (Development and Regulation) Act, 1957 and also under Section 36 (A) of Tamil Nadu Minor Minerals Concession Rules, 1959.

(vi) Crime No.291 of 2014 Thiruvattar Police Station registered under Section 3(1) of Tamil Nadu Prevention of Public Properties (Damage and Loss) Act, 1992.

3. Further it is stated in the affidavit that on 25.06.2014 one Jeyasingh, Son of Sundaran as defacto complainant has given a complaint in Thiruvattur Police Station against the detenu and the same has been registered in Crime No.309 of 2014 under Section 3(1) of Tamil Nadu Prevention of Public Properties (Damage and Loss) Act, 1992 and subsequently, altered into Sections 341, 294(b) and 506(ii) of the Indian Penal Code and also under Section 3(1) of Tamil Nadu Prevention of Public Properties (Damage and Loss) Act, 1992 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 mother-in-law of the detenu as petitioner.

5. On the side of the respondents a detailed 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 the detaining authority has relied upon the bail order passed in Crime No.202 of 2013 by the District and Sessions Court, Kanyakumari District at Nagercoil and Crime No.202 of 2013 has been registered only under Section 3(1) of Tamil Nadu Prevention of Public Properties (Damage and Loss) Act, 1992, whereas the ground case has been instituted against the detenu under



Section 3(1) of Tamil Nadu Prevention of Public Properties (Damage and Loss) Act, 1992 and subsequently, altered into Sections 341, 294(b) and 506(ii) of the Indian Penal Code and also under Section 3(1) of Tamil Nadu Prevention of Public Properties (Damage and Loss) Act, 1992 and therefore, the detaining authority has not applied his mind in relying upon the bail order passed in Crime No.202 of 2013 and on that score alone, the detention order in question is liable to be quashed.

7. The learned Additional Public Prosecutor has represented that the ground case has initially been registered under Section 3(1) of Tamil Nadu Prevention of Public Properties (Damage and Loss) Act, 1992 and subsequently, altered into Sections 341, 294(b) and 506(ii) of the Indian Penal Code along with the said Section 3(1) of Tamil Nadu Prevention of Public Properties (Damage and Loss) Act, 1992 and therefore, the detaining authority has rightly relied upon the bail order passed in Crime No.202 of 2013. Under the said circumstances, the contention putforth on the side of the petitioner cannot be accepted.

8. It is seen from the detention order that at the time of passing the detention order, a bail application filed by the detenu is pending on the file of this Court. The detaining authority has relied upon the bail order passed in Crime No.202 of 2013 by the District and Sessions Court, Kanyakumari District at Nagercoil. As rightly pointed out on the side of the petitioner that Crime No.202 of 2013 has been registered only under Section 3(1) of Tamil Nadu Prevention of Public Properties (Damage and Loss) Act, 1992, whereas even though ground case has been registered under Section 3(1) of Tamil Nadu Prevention of Public Properties (Damage and Loss) Act, 1992 and subsequently, altered into Sections 341, 294(b) and 506(ii) of the Indian Penal Code and also under Section 3(1) of Tamil Nadu Prevention of Public Properties (Damage and Loss) Act, 1992, the detaining authority has failed to consider that Sections of law mentioned in the ground case are not similar to that of Section of law mentioned in Crime No.202 of 2013 and that itself would affect the rights of the detenu 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 P.D.No.16/2014, dated 21.07.2014 by the second respondent/detaining authority is quashed and consequently the respondents are directed to set the detenu viz., Rajakumar, Son of Amose at liberty forthwith, unless he is required to be incarcerated in connection with any other case.

Sd/  
Assistant Registrar

/True copy/

sub Assistant Registrar(c.s)



To

1. The Secretary to Government,  
Home, Prohibition and Excise Department,  
Fort St. George,  
Secretariat,  
Chennai - 600 009.
2. The District Collector and  
District Magistrate,  
Kanyakumari District,  
At Nagercoil.
3. The Inspector of Police,  
Thiruvattar Police Station,  
Kanyakumari District.
4. The Superintendent, Central Prison, Palayamkottai  
(to Duplicate to Communicate the detenu)
5. The Joint Secretary to the Government,  
Public (Law & Order)  
Fort St. George,  
Chennai - 600 009.
6. The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.

+1cc to M/S. R. Alagumani, Advocate in SR.No. 23141

TS/29.04.2015/4P-9C

ORDER MADE IN  
H.C.P (MD) No.132 of 2015

27.04.2015