



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 05.01.2015

Coram

THE HONOURABLE MR.JUSTICE A.SELVAM

and

THE HONOURABLE MR.JUSTICE T.MATHIVANAN

H.C.P. (MD) No.822 of 2014

Sumathi

.. Petitioner

Vs.

1.State rep.by,
The Secretary to Government,
Home, Prohibition & Excise Department,
State of Tamilnadu,
Secretariat, Chennai - 9.

2.The District Collector & District Magistrate,
Thanjavur District, Thanjavur. .. 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 connected with the detention order dated 12.07.2014 passed in P.D.No.52 of 2014 by the second respondent in detaining the detenu under Section 2(b) of the Tamilnadu Act 14 of 1982 as a 'bootlegger' and quash the same and direct the respondents to produce the detenu namely C.Periasami S/o.Chellapandi, male, aged 33 years, now detained in Central Prison, Tiruchirapalli before this Court and set him at liberty.

For Petitioner : Mr.K.M.Karunakaran

For Respondents : Mr.A.Ramar
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.No.52 of 2014 dated 12.07.2014 by the detaining authority who has been arrayed as second respondent herein against the detenu by name Periyasami and quash the same and thereby set him at liberty forthwith.

2. The Inspector of Police, Pattukottai Prohibition Enforcement Wing 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.18 of 2013 - Sethubavachathiram Police Station, registered under Sections 4(1)(aaa) and 4(1-A) of Tamilnadu Prohibition Act, 1937.

(ii) Crime No.213 of 2014 - Pattukottai Prohibition Enforcement Wing, registered under Sections 4(1)(i) of Tamilnadu Prohibition Act, 1937.

(iii) Crime No.321 of 2014 - Pattukottai Prohibition Enforcement Wing, registered under Sections 4(1)(a) of Tamilnadu Prohibition Act, 1937.

(iv) Crime No.416 of 2014 - Pattukottai Prohibition Enforcement Wing, registered under Sections 4(1)(a), 4(1)(g) and 4(1-A) of Tamilnadu Prohibition Act, 1937.

Further it is stated in the affidavit that on 17.06.2014 the detenu has been found in possession of 60 liters of illicit poisonous arrack and consequently a case has been registered in Crime No.417 of 2014 under Sections 4(1)(aaa) and 4(1-A) of Tamilnadu Prohibition Act, 1937 and ultimately requested the detaining authority to invoke Act 14 of 1982 against the detenu.

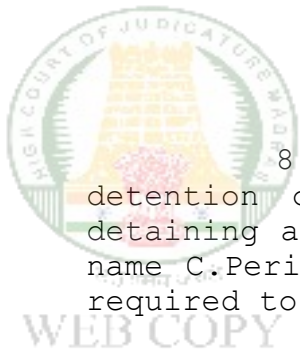
3. The detaining authority after perusing the averments made in the affidavit and other connected documents has derived subjective satisfaction to the effect that the detenu is a habitual offender and ultimately branded him as 'boot-legger' by way of passing the impugned detention order and in order 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 a detailed counter has been filed, wherein it has been contended *inter alia* 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 have been submitted and the same have not been disposed of without delay. Under the said circumstances, the impugned detention order 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 is not liable to 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 and 9, 23 clear working days are available and in between column Nos.12 and 13, 3 clear working days are available and with regard to second representation, in between column Nos.7 and 9, 11 clear working days are available and in between column Nos.12 and 13, 3 clear working days are available and no explanation has been given on the side of the respondents with regard to huge delay and that itself would affect 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.



8. In fine, this Habeas Corpus Petition is allowed and the detention order dated 12.07.2014 passed in P.D.No.52 of 2014 by the detaining authority/second respondent herein is quashed and the detenu by name C.Periasami is ordered to be set at liberty forthwith, unless he is required to be incarcerated in any other case.

Sd/-

Assistant Registrar(AE)

\\True copy\\

Sub Assistant Registrar

To

1. THE SECRETARY TO GOVT.,
HOME, PROHIBITION AND EXCISE DEPARTMENT, SECRETARIAT,
CHENNAI.600 009
2. THE DISTRICT COLLECTOR AND DISTRICT MAGISTRATE,
THANJAVUR DT, THANJAVUR.
3. THE SUPERINTENDENT CENTRAL PRISON, TIRUCHIRAPPALLI
4. THE ADDL.PUBLIC PROSECUTOR, MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.
5. THE JOINT SECRETARY TO GOVT.PUBLIC (LAW AND ORDER)
FORT ST.GEORGE, CHENNAI-9

H.C.P. (MD) No.822 of 2014
05.01.2015

mj

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