



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 18.02.2015
CORAM:

THE HONOURABLE MR.JUSTICE A.SELVAM
and
THE HONOURABLE MR.JUSTICE T.MATHIVANAN

HABEAS CORPUS PETITION(MD)No.880 of 2014

Dhanalakshmi .. Petitioner

Vs.

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

2.The District Collector and
District Magistrate,
O/o.The District Collector and
District Magistrate,
Thanjavur District, Thanjavur.

3.The Superintendent of Central Prison,
Central Prison,
Tiruchirapalli. .. 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 the entire records in detention order passed in P.D.No.55 of 2014, dated 15.07.2014 on the file of the second respondent herein and set aside the same as illegal and direct the respondents to produce the body or person of the petitioner's son, namely, Sivanantham @ Siva, S/o.Letchumanan, aged 28 years, who is detained in Central Prison, Tiruchirapalli before this Court and set him at liberty and pass such further or other orders.

For Petitioner : Mr.K.A.S.Prabhu

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 detention order passed in P.D.No.55 of 2014, dated 15.07.2014 by the detaining authority, who has been arrayed as second respondent herein against the detenu by name Sivanantham @ Siva, Son of Letchumanan and quash the same and thereby set him at liberty forthwith.



2. The Inspector of Police, Kumbakonam East 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.516 of 2013 Kumbakonam East Police Station registered under Section 399 of the Indian Penal Code.

(ii) Crime No.187 of 2014 Kumbakonam West Police Station registered under Section 387 of the Indian Penal Code.

3. Further it is stated in the affidavit that on 28.06.2014 one Arumugam has given a complaint in Kumbakonam East Police Station against the detenu and the same has been registered in Crime No.183 of 2014 under Sections 452, 394 and 506(i) of the Indian Penal Code read with 3(1) of TNPPDL Act and ultimately requested the detaining authority to invoke Act 14 of 1982 against the detenu.

4. The detaining authority after perusing the averments made in the affidavit coupled with 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 of the detenu as petitioner.

5. 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.

6. The learned counsel appearing for the petitioner has contended that on the side of the detenu a representation has been given 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 considered and disposed of without delay and therefore the detention order in question does not require 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, twenty one clear working days are available and in between Column Nos.12 and 13, twelve clear working days are available and no explanation has been given on the side of the respondents with regard to huge delay in disposing of the representation submitted on the side of the detenu 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 dated 15.07.2014 passed in P.D.No.55 of 2014 by the second respondent/detaining authority is quashed and consequently the respondents are directed to set the detenu viz., Sivanantham @ Siva, Son of Letchumanan at liberty forthwith, unless he is required to be incarcerated in connection with any other case.

Sd/-

Assistant Registrar(RTI)

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To

- 1.The Secretary to the Government,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai - 600 009.
- 2.The District Collector and District Magistrate,
O/o.The District Collector and District Magistrate,
Thanjavur District, Thanjavur.
- 3.The Superintendent of Central Prison,
Central Prison,
Tiruchirapalli.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC TO M/S.K.A.S.PRABHU, ADVOCATE SR.NO.7517

ORDER MADE IN
H.C.P (MD) No.880 of 2014
18.02.2015

PS

NA/20/02/2015/P3/6C