



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.01.2015

CORAM:

THE HONOURABLE MR.JUSTICE A.SELVAM

and

THE HONOURABLE MR.JUSTICE T.MATHIVANAN

HABEAS CORPUS PETITION(MD)No.918 of 2014

Benazir

..Petitioner

Vs.

1.The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George, Chennai - 600 009.

2.The District Collector and District Magistrate,
Office of the District Collector
and District Magistrate,
Thanjavur District.

3.The Superintendent of Prison,
Trichy Central Prison,
Trichy 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 the entire records connected with the detention order of the respondent No.2 in P.D.No.57/2014, dated 27.07.2014 and quash the same and direct the respondents to produce the detenu namely Thulasiraman @ Thulasi, Son of Periyasami, aged about 33 years detained in Trichy Central Prison before this Court and set him at liberty forthwith and pass such further or other orders.

For Petitioner : Mr.R.Alagumani

For RR 1 & 3 : 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.57/2014, dated 27.07.2014 by the detaining authority, who has been arrayed as second respondent herein, against the detenu by name Thulasiraman @ Thulasi, Son of Periyasami and quash the same and thereby set him at liberty forthwith.

2. The Inspector of Police, Thiruvaiyaru Police Station as sponsoring authority has submitted an affidavit to the detaining authority wherein it is stated to the effect that the detenu has involved in the following adverse cases:

(i) Crime No.64 of 2012 registered under Section 392 of

<https://hcservices.ecourts.gov.in/hcservices/> Penal Code on the file of Thiruvaiyaru Police Station.



(ii) Crime No.175 of 2013 registered under Sections 341, 294(b), 336, 394 and 307 of the Indian Penal Code altered into Sections 341, 294(b), 336, 394, 307 read with 109 of the Indian Penal Code on the file of Thiruvaiyaru Police Station.

(iii) Crime No.15 of 2014 registered under Sections 147, 148, 324 and 302 of the Indian Penal Code on the file of Thiruvaiyaru Police Station.

3. Further it is stated in the affidavit that on 21.06.2014 one Tamilselvan has given a complaint to the Inspector of Police, Thiruvaiyaru Police Station against the detenu and the same has been registered in Crime No.120 of 2014 under Sections 341, 294(b), 323 and 307 of the Indian Penal Code read with Section 3(1) of the Tamil Nadu Public Property (Prevention of 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 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 '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.

5. On the side of the respondents, a detailed counter has been filed, wherein it has been contended 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, two representations have been submitted and the same have 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 representations submitted on the side of the detenu have been duly disposed of without delay and therefore, the detention order does not call for interference.

8. 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 to 9 nine clear working days and in between column Nos.12 and 13 three clear working days are available and likewise, with regard to second representation in between column Nos.7 to 9 six clear working days and in between column Nos.12 and 13 seven 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 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 order of detention dated 27.07.2014 in P.D.No.57/2014, passed by the second respondent/detaining authority is quashed and consequently, the detenu Thulasiraman @ Thulasi, Son of Periyasami is ordered to be set at liberty forthwith, unless he is required to be incarcerated in connection with any other case.

Sd/-

Assistant Registrar(T&P)

/True copy/

Sub Assistant Registrar



To

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George, Chennai - 600 009.
- 2.The District Collector and District Magistrate,
Office of the District Collector
and District Magistrate,
Thanjavur District.
- 3.The Superintendent of Prison,
Trichy Central Prison,
Trichy District.
- 4.The Joint Secretary to Government,
Public (Law & Order), Fort St.George,
Chennai-600 009.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.R.Alagumani, Advocate in SR.2941

H.C.P (MD) No.918 of 2014
21.01.2015

ps

pbk 22/01/2015 ::3p-7c: