



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
Dated : 24.06.2015

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

H.C.P.(MD)No.149 of 2015

R.Annasundari .. Petitioner

Vs.

1.The State of Tamilnadu,
rep.by the Secretary,
Prohibition and Excise Department,
Secretariat, Chennai - 600 009.

2.The District Collector & District Magistrate,
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 the records relating to the Detention order M.H.S.CONFDL No.9/2015 dated 16.01.2015 by the 2nd respondent under Tamil Nadu Act 14 of 1982 and quash the same and direct the respondent to produce the detenu Ramar M/30 S/o.Chinna Esakkimuthu Nadar now confined in Central Prison Palayamkottai before this Court and set him at liberty.

For Petitioner : Mr.S.Sivakumar
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.9/2015 dated 16.01.2015 by the detaining authority who has been arrayed as second respondent herein against the detenu by name Ramar, S/o.Chinna Esakkimuthu Nadar and quash the same and thereby set him at liberty forthwith.

2. The Inspector of Police, Manur 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.158 of 2013, Manur Police Station, registered under Sections 324 and 506(ii) of the Indian Penal Code.

(ii) Crime No.32 of 2014, Manur Police Station, registered under Section 379 of the Indian Penal Code and 21(1)(IV) of Mines and Minerals (Development and Regulation) Act.

(iii) Crime No.373 of 2014, Manur Police Station, registered under Sections 294(b) and 506(ii) of the Indian Penal Code r/w 3(1)(X) of SC/ST Act, 1989.

(iv) Crime No.6 of 2015, Manur Police Station, registered under Sections 294(b), 387 and 506(ii) of the Indian Penal Code.

(v) Crime No.5 of 2015, Thevarkulam Police Station, registered under Sections 294(b) and 506(ii) of the Indian Penal Code.

3. Further it is stated in the affidavit that on 04.01.2015 at about 16.00 hours one Suresh as defacto complainant has given a complaint in Manur Police Station against the detenu and the same has been registered in Crime No.7 of 2015 under Sections 294(b), 307 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 Habeas Corpus 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 two representations are 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 are ~~not~~ 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 with regard to first representation in between column Nos.7 to 9, 9 clear working days are available and in between column Nos.12 and 13, 9 clear working days are available and with regard to second representation in between column Nos.7 to 9, 9 clear working days are available and in between column Nos.12 and 13, 9 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 representations 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 06.01.2015 passed in M.H.S.Confdl. No.9/2015 by the detaining authority/second respondent herein is quashed and the detenu by name Ramar is ordered to be set at liberty forthwith, unless he is required to be incarcerated in any other case.

Sd/-

Assistant Registrar(Per.Admn)

/True copy/

Sub Assistant Registrar

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To

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

+1cc to Mr.P.Mahendran, Advocate in Sr No.33366

H.C.P. (MD) No.149 of 2015
24.06.2015

RG.25.06.2015

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