



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.956 of 2014

A.Victoria

.. Petitioner

Vs.

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

2.The District Collector & District
Magistrate of Dindigul District,
Collector's Office,
Dindigul,
Dindigul 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 pertaining to the impugned detention order passed by the second respondent in Detention Order No.11 of 2014, dated 20.05.2014 in detaining the detenu under Section 2(f) of the Tamil Nadu Act 14 of 1982 as a "Goonda" and quash the same and direct the respondents to produce the detenu namely A.James @ Anbarasan, S/o.late.Antony Doss, aged 26 years, who is detained in Central Prison, Madurai before this Court and set him at liberty forthwith and pass such further or other orders.

For Petitioner : Mr.K.Manikandan

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 Detention Order No.11 of 2014, dated 20.05.2014 by the detaining authority, who has been arrayed as second respondent herein, against the detenu by name A.James @ Anbarasan, S/o.late.Antony Doss and quash the same and thereby set him at liberty forthwith.

2. The Inspector of Police, Kodaikanal Police Station as sponsoring authority has submitted an affidavit to the detaining authority, who has been arrayed as second respondent herein, wherein it is stated that the detenu has involved in the following adverse cases:

(i) Crime No.127 of 2013 registered under Section 379

of the Indian Penal Code on the file of Kodaikanal Police Station.



(ii) Crime No.352 of 2013 registered under Section 387 of the Indian Penal Code on the file of Kodaikanal Police Station.

(iii) Crime No.240 of 2014 registered under Sections 457 and 380 of the Indian Penal Code on the file of Kodaikanal Police Station.

3. Further it is stated in the affidavit that on 10.04.2014 one Suresh has given a complaint against the detenu in Kodaikanal Police Station and the same has been registered in Crime No.245 of 2014 under Section 392 read with 397 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 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 mother 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.

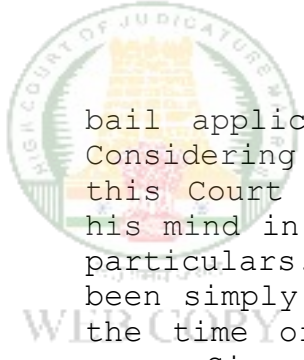
6. The learned counsel appearing for the petitioner has contended that the detaining authority has not applied his mind in deriving subjective satisfaction on the basis of similar case particulars. Under the said circumstances, the detention order in question is liable to be quashed.

7. Per contra, the learned Additional Public Prosecutor has contended that the detenu has involved in three adverse cases and in one ground case. Considering the fact that the detenu is a habitual offender, the detaining authority has rightly branded him as 'Goonda' by way of passing the impugned detention order and therefore, the impugned detention order passed by the detaining authority is not liable to be quashed.

8. On the basis of the divergent submissions made on either side, the Court has to analyse as to whether the detaining authority has applied his mind in deriving subjective satisfaction with regard to similar case particulars.

9. In paragraph No.5 of the detention order, it has been stated to the effect that in C.C.No.92 of 2013, the Judicial Magistrate, Kodaikanal has imposed two months rigorous imprisonment against the detenu. Further, it is stated in the same paragraph that the detenu would get bail from higher Courts.

10. In fact, this Court has perused the Judgment passed in C.C.No.92 of 2013, wherein the detenu has been awarded only two months simple imprisonment, whereas in the detention order it has been erroneously mentioned as rigorous imprisonment. Further, it is seen from the records that the detenu has involved in three adverse cases and filed



bail application in the ground case and the same has been dismissed. Considering the aforesaid lapses on the part of the detaining authority, this Court is of the view that the detaining authority has not applied his mind in deriving subjective satisfaction on the basis of similar case particulars. Further, in paragraph No.3 of the detention order, it has been simply stated to the effect that the complainant has raised alarm at the time of committing the alleged offence with regard to the ground case. Since the complainant himself has raised such kind of alarm, the subjective satisfaction derived by the detaining authority is totally in correct.

11. It has already been pointed out that the detaining authority has not applied his mind in deriving subjective satisfaction on the basis of similar case particulars and therefore, the detention order in question is liable to be quashed.

12. In fine, this Habeas Corpus Petition is allowed and the order of detention in Detention Order No.11 of 2014, dated 20.05.2014 passed by the second respondent/detaining authority is quashed and consequently, the detenu A.James @ Anbarasan, S/o.late.Antony Doss 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

ps
To

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

2.The District Collector & District
Magistrate of Dindigul District,
Collector's Office,
Dindigul,
Dindigul District.

3.The Superintendent Central Prison,
Madurai.

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

5. The Joint Ssecretary to Government
Public (Law & Order) Fort St.George, Chennai-600 009.
+1CC TO MR.K.MANIKANDAN, ADVOCATE SR NO.3081