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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 09.01.2015

Coram

THE HONOURABLE MR.JUSTICE A.SELVAM

and

THE HONOURABLE MR.JUSTICE T.MATHIVANAN

H.C.P.(MD)No.980 of 2014

Selvi

..Petitioner

Vs.

1.The Secretary to Government,
State of Tamilnadu,
Home, Prohibition & Excise Department,
Fort St.George, Chennai - 9.

2.The District Collector & District Magistrate,
O/o.District Collector & District Magistrate,
Thoothukudi District.

3.The Superintendent of Prison,
Palayamkottai Central Prison,
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 entire records connected with the detention order dated 07.08.2014 passed in H.S.(MD)Confdl.No.15/2014 by the second respondent and quash the same and direct the respondents to produce the detenu namely Patturaj @ Pattu S/o.Subramanian aged 44 years, now detained in Central Prison, Palayamkottai before this Court and set him at liberty.

For Petitioner : Mr.R.Alagumani

For Respondents : Mr.A.Ramar

Addl.Public Prosecutor

ORDER

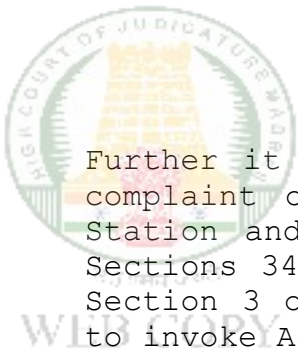
(Order of the Court was made by A.SELVAM, J.)

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 H.S.(MD)Confdl.No.15/2014 dated 07.08.2014 by the detaining authority who has been arrayed as second respondent herein against the detenu by name Patturaj @ Pattu and quash the same and thereby set him at liberty forthwith.

2. The Inspector of Police, Thoothukudi South 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.229 of 2014 - Thoothukudi South Police Station, registered under Sections 147, 148, 294(b), 341, 302, 506(ii) and 120(b) of the Indian Penal Code.

<https://hcservices.ecourts.gov.in/hcservices/>
(ii) Crime No.348 of 2014 - Thoothukudi Central Police Station, registered under Sections 341, 294(b), 387, 307 and 506 (ii) of the Indian Penal Code.



Further it is stated in the affidavit that one Karupppasamy has lodged a complaint on 28.05.2014 against the detenu in Thoothukudi South Police Station and the same has been registered in Crime No.427 of 2014 under Sections 341, 294(b) and 506(ii) of the Indian Penal Code and also under Section 3 of TNPPDL Act 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 '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.

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 a representation has been submitted and the same has not been disposed of without delay and therefore, the detention order in question is liable to be quashed.

6. The learned Additional Public Prosecutor has contended that the representation submitted on the side of the detenu has been disposed of without delay and therefore, the detention order in question does not require any interference.

7. On the side of the respondents, a proforma has been submitted, wherein it has been clearly stated that in between column Nos.7 and 9, 13 clear working days are available and in between column Nos.12 and 13, 7 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 07.08.2014 passed in H.S.(M)Confdl.No.15/2014 by the detaining authority/second respondent herein is quashed and the detenu by name Patturaj @ Pattu is ordered to be set at liberty forthwith, unless he is required to be incarcerated in any other case.

Sd/-

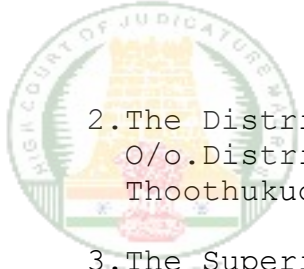
Assistant Registrar(CO)

/True copy/

Sub Assistant Registrar

To

1.The Secretary to Government,
State of Tamilnadu,
Home, Prohibition & Excise Department,
Fort St.George, Chennai - 9.



2.The District Collector & District Magistrate,
O/o.District Collector & District Magistrate,
Thoothukudi District.

3.The Superintendent of Prison,
Palayamkottai Central Prison,
Tirunelveli District.

4.The Joint Secretary to Government,
Public (L & O), Fort St.George,
Chennai-9.

5.The Addl.Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1CC to M/s.R.Alagumani, Advocate in SR.1883

H.C.P. (MD) No.980 of 2014
09.01.2015

mj

PBK 21/01/2015 ::3P-7C: