



WEB COPY

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.982 of 2014

Yasoda

.. Petitioner/Mother of the Detenu

Vs.

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

2.The District Collector & District Magistrate,
Thanjavur District, Thanjavur. .. 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 10.08.2014 passed by the 2nd respondent in P.D.No.63 of 2014 in detaining the detenu under Section 2(f) of Tamilnadu Act 14 of 1982 as a 'goonda' and quash the same and direct the respondents to produce the detenu namely Rajesh @ Aandi S/o.Rajendran, male, aged 24 years, now detained in Central Prison, Tiruchirapalli before this Court and set him at liberty.

For Petitioner : Mr.K.M.Karunakaran

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 P.D.No.63 of 2014 dated 10.08.2014 by the detaining authority who has been arrayed as second respondent herein against the detenu by name Rajesh @ Aandi and quash the same and thereby set him at liberty forthwith.

2. The Inspector of Police, Thirukattupalli 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:

- <https://hcservices.ecourts.gov.in/hcservices/>
- (i) Crime No.152 of 2007 - Thirukattupalli Police Station, registered under Section 302 of the Indian Penal Code.
 - (ii) Crime No.35 of 2012 - Thirukattupalli Police Station,



registered under Sections 294(b), 324, 506(ii) and 379 of the Indian Penal Code.

(iii) Crime No.262 of 2012 - Thirukattupalli Police Station, registered under Sections 394 altered into Section 397 of the Indian Penal Code.

(iv) Crime No.443 of 2013 - Thirukattupalli Police Station, registered under Section 392 of the Indian Penal Code.

Further it is stated in the affidavit that on 13.06.2014 one Maniarasan has given a complaint in Thirukattupalli Police Station against the detenu and the same has been registered in Crime No.136 of 2014 under Section 392 of the Indian Penal Code 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 mother of the detenu as petitioner.

4. 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.

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, 6 clear working days are available and in between column Nos.12 and 13, 9 clear working days are available and in between column Nos.15 and 6, 3 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 10.08.2014 passed in P.D.No.63 of 2014 by the detaining authority/second respondent herein is quashed and the detenu by name Rajesh @ Aandi is ordered to be set at liberty forthwith, unless he is required to be incarcerated in any other case.

Sd/-

Assistant Registrar(CO)

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To

1. THE SECRETARY TO GOVERNMENT

HOME, PROHIBITION AND EXCISE DEPARTMENT, SECRETARIAT, CHENNAI

2. THE DISTRICT COLLECTOR AND DISTRICT MAGISTRATE, O/O DISTRICT COLLECTOR
AND DISTRICT MAGISTRATE, THANJAVUR DIST

3. THE SUPERINTENDENT OF PRISON

CENTRAL PRISON, TIRUCHIRAPPALLI

(INDUPLICATE TO COMMUNICATE THE DETENUE)

4. THE JOINT SECRETARY TO GOVERNMENT PUBLIC (LAW & ORDER)

FORT SAINT GEORGE, CHENNAI-9

5. THE ADDL. PUBLIC PROSECUTOR, MADURAI BENCH OF MADRAS HIGH COURT, MADURAI

+1 CC TO M/S.K.M.KARUNAKARAN, ADVOCATE SR.NO.1272

H.C.P. (MD) No. 982 of 2014
09.01.2015

MJ

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