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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 18.06.2015

Coram

THE HONOURABLE MR.JUSTICE A.SELVAM

and

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

H.C.P. (MD) No.153 of 2015

P.Maharajothi

.. Petitioner

Vs.

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

2.The Commissioner of Police,
Madurai City, Madurai.

3.The Superintendent of Prison,
Special Prison for Women
Trichirapalli.

.. 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 of the impugned order of detention in No.11/BCDFGISSSV/2015 dated 28.01.2015 on the file of the 2nd respondent and quash the same as illegal and to direct the respondents to produce the detenu Jothimani female aged 30 years W/o.Maharajothi now detained at the Special Prison for women, Trichirapalli before this Court and set her at liberty.

For Petitioner : Mr.J.Selvam

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 No.11/BCDFGISSSV/2015 dated 28.01.2015 by the detaining authority who has been arrayed as second respondent herein against the detenu by name Jothimani, W/o.Maharajothi and quash the same and thereby set her at liberty forthwith.

<https://hcservices.ecourts.gov.in/hcservices/> 2. The Inspector of Police, Karimedu 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.365 of 2013, B5 Southgate (Crime) Police Station, registered under Section 379 of the Indian Penal Code.

(ii) Crime No.301 of 2014, B5 Southgate (Crime) Police Station, registered under Section 379 of the Indian Penal Code.

3. Further it is stated in the affidavit that on 08.01.2015 one Pandi S/o.Subburam as defacto complainant has given a complaint in Karimedu Police Station against the detenu and another and the same has been registered in Crime No.28 of 2015 under Sections 397 and 506(ii) of the Indian Penal Code and ultimately requested the detaining authority to invoke Act 14 of 1982 against the detenu.

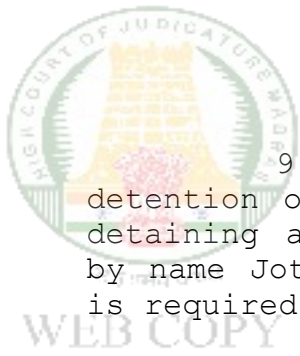
4. The detaining authority after considering the averments made in the affidavit and other connected documents has derived subjective satisfaction to the effect that the detenu is a 'Goonda' by way of passing the impugned detention order and in order to quash the same, the present Habeas Corpus Petition has been filed by the mother of the husband 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 three 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 all the representations submitted on the side of the detenu are duly 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 and 9, 4 clear working days are available and in between column Nos.12 and 13, 11 clear working days are available; with regard to second representation in between column Nos. 7 to 9, 4 clear working days are available and in between column Nos.12 and 13, 4 clear working days are available and with regard to third representation in between column Nos.7 and 9, 4 clear working days are available and in between column Nos.12 and 13, 4 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 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.



9. In fine, this Habeas Corpus Petition is allowed and the detention order dated 28.01.2015 passed in No.11/BCDFGISSSV/2015 by the detaining authority/second respondent herein is quashed and the detenu by name Jothimani 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

To

- 1.The Principal Secretary to Government,
Home, Prohibition & Excise Department,
Secretariat, Chennai - 9.
- 2.The Commissioner of Police,
Madurai City, Madurai.
- 3.The Superintendent of Prison,
Special Prison for Women
Trichirapalli.
4. The Joint Secretary to Govt.of Tamilnadu,
Public (Law & Order)Dept.,
Fort.St.George,Chennai - 9.
- 5.The Addl.Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to M/s.J.Selvam,Advocate SR.No.31610

H.C.P. (MD) No.153 of 2015
18.06.2015

mj

PA/PPS/22.06.2015/3P/7C