



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 03.06.2015

Coram

THE HONOURABLE MR.JUSTICE A.SELVAM

and

THE HONOURABLE MR.JUSTICE V.S.RAVI

H.C.P.(MD)No.154 of 2015

Kalavathi

..Petitioner

Vs.

1.The State of Tamil Nadu,
rep.by its Secretary to Government,
Home, Prohibition & Excise Department,
Secretariat, Chennai - 9.

2.The District Collector & District Magistrate,
Thanjavur 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 pertaining to the impugned detention order passed by the 2nd respondent in his proceedings in P.D.No.03/2015 dated 04.01.2015 and quash the same as illegal and direct the respondents to produce the petitioner's son Balaji @ Parotta Balaji, male aged 25 years, S/o.Sekar, now detained in Central Prison, Tiruchirapalli before this Court and set him at liberty.

For Petitioner : Mr.S.Ravi

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 P.D.No.03/2015 dated 04.01.2015 by the detaining authority who has been arrayed as second respondent herein against the detenu by name Balaji @ Parotta Balaji S/o.Sekar and quash the same and thereby set him at liberty forthwith.

2. The Inspector of Police, Thanjavur 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 case:

Crime No.49 of 2014, Thanjavur South Police Station,
registered under Section 393 of the Indian Penal Code altered
to Sections 393 r/w 397 of the Indian Penal Code.

3. Further it is stated in the affidavit that on 01.10.2014 one Manonmani as defacto complainant has given a complaint to the Sub Inspector of Police, South Police Station, Thanjavur against the detenu and the same has been registered in Crime No.226 of 2014 under Section 302 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. Despite of repeated adjournments, the respondents have not chosen to file counter. Under the said circumstances, this petition is disposed of on merits.

6. The learned counsel appearing for the petitioner has contended that on the side of the detenu two representations have been submitted and the same are not 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 have been duly disposed of without delay and therefore, the detention order in question is not liable to be quashed.

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.12 and 13, 16 clear working days are available and with regard to second representation in between column Nos.7 to 9, 7 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 huge 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 04.01.2015 passed in P.D.No.03/2015 by the detaining authority/second respondent herein is quashed and the detenu by name Balaji @ Parotta Balaji is ordered to be set at liberty forthwith, unless he is required to be incarcerated in any other case.

Sd/-

Assistant Registrar(RTI)

/True copy/

Sub Assistant Registrar

To

- 1.The Secretary to Government, Home, Prohibition & Excise Department, Secretariat, Chennai - 9.
- 2.The District Collector & District Magistrate, Thanjavur District.
- 3.The Superintendent of Central Prison, Trichy.
- 4.The Joint Secretary, Public (Law & Order) Department, Government of Tamilnadu, Fort St.Geroge, Chennai-9.
- 5.The Addl.Public Prosecutor, Madurai Bench of Madras High Court, Madurai.

+1CC to M/s.S.Ravi, Advocate in SR.No.27507

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