



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 22.04.2015
CORAM:

THE HONOURABLE MR.JUSTICE A.SELVAM
and
THE HONOURABLE MR.JUSTICE V.S.RAVI

HABEAS CORPUS PETITION(MD)No.155 of 2015

Shanmugathai .. Petitioner

Vs.

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

2.The District Collector and
District Magistrate,
Thoothukudi District,
Thoothukudi. .. 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 records relating to the detention order passed by the second respondent in H.S(M)Confdl.No.03/2015, dated 14.01.2015 and quash the same and direct the respondents to produce the detenu Isravel, Son of John Pandian, aged 33 years, who is detained at Central Prison, Palayamkottai before this Court and set him at liberty and pass such further or other orders.

For Petitioner : Mr.R.Pon Karthikeyan

For Respondents : Mr.C.Ramesh
Additional 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 H.S(M)Confdl.No.03/2015, dated 14.01.2015 by the detaining authority, who has been arrayed as second respondent herein against the detenu by name Isravel, Son of John Pandian and quash the same and thereby set him at liberty forthwith.

2. The Inspector of Police, Thoothukudi Enforcement Wing 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.141 of 2012 Tiruchendur Prohibition Enforcement Wing registered under Sections 4(1)(A), 4(1)(a) (Transport) and 483 of the Indian Penal Code altered into Sections 4(1-a), 12 of TNP Act and also under Section 483 of the Indian Penal Code.

(ii) Crime No.903 of 2014 Thoothukudi Prohibition Enforcement Wing registered under Sections 4(1)(aaa) read with 4(1-A), 4(1-H) Transport Act read with 7, 13, 14 of R.S Rules 2000 and also under Sections 420, 468 and 328 of the Indian Penal Code and also under Section 66 of Central Excise Rules.

3. Further it is stated in the affidavit that on 04.01.2015, the detenu has been found in possession of some quantity of illicit arrack and consequently, a case has been registered in Thoothukudi Enforcement Wing in Crime No.14 of 2015 under Sections 4(1)(a) and 4(1-A) of TNP Act 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 habitual offender and ultimately branded him as 'Boot Legger' 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 sufficient opportunity, the respondents have not filed counter. Under the said circumstances, this Habeas Corpus Petition is disposed of on merits on the basis of available materials.

6. The learned counsel appearing for the petitioner has contended that with regard to detention order, the petitioner has sent a representation on 28.01.2015 to the concerned authorities and so far as the same has not been disposed of and therefore, the detention order in question is liable to be quashed.

7. It is seen from the additional typed set of papers that the petitioner has sent the representation, dated 28.01.2015, but so far no order has been passed.

8. Considering the aforesaid lapses on the part of the respondents, this Court is of the view that the detention order in question is liable to be quashed.

9. In fine, this Habeas Corpus Petition is allowed and the detention order passed in H.S(M)Confdl.No.03/2015, dated 14.01.2015 by the second respondent/detaining authority is quashed and consequently the respondents are directed to set the detenu viz., Isravel, Son of John Pandian at liberty forthwith, unless he is required to be incarcerated in connection with any other case.

Sd/-

Assistant Registrar(RTI)

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1. THE PRINCIPAL SECRETARY TO GOVERNMENT, HOME PROHIBITION AND EXCISE DEPARTMENT, FORT ST. GEORGE, CHENNAI-600 009.
2. THE DISTRICT COLLECTOR & DISTRICT MAGISTRATE, THOOTHUKUDI DISTRICT, THOOTHUKUDI.
3. THE SUPERINTENDENT, CENTRAL PRISON, PALAYAMKOTTAI
4. THE JOINT SECRETARY TO GOVT.PUBLIC(LAW & ORDER)
FORT ST.GEORGE CHENNAI-9
- 5.THE ADDITIONAL PUBLIC PROSECUTOR, MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1cc to MR.R.PONKARTHIKEYAN, ADVOCATE SR.NO.20828

ORDER MADE IN
H.C.P (MD) No.155 of 2015
22.04.2015

PS

NA/24/04/2015/P3/7C