



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.04.2015

CORAM:

THE HONOURABLE MR.JUSTICE A.SELVAM

and

THE HONOURABLE MR.JUSTICE V.S.RAVI

HABEAS CORPUS PETITION(MD)No.158 of 2015

Esakki Thevar

.. Petitioner

Vs.

1.The State of Tamil Nadu,
Rep. By Secretary to the Government,
Home, Prohibition and Excise Department,
Fort St. George, Chennai - 9.

2.The District Collector and
District Magistrate,
Tirunelveli District.

.. 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 M.H.S.Confdl.No.106/2014, dated 30.12.2014 and quash the same and direct the respondents to produce the detenu namely Murugan @ Vice Murugan, Son of Esakki Thevar, aged about 28 years now detained at Central Prison, Palayamkottai before this Court and set him at liberty and pass such further or other orders.

For Petitioner : Mr.D.Venkatesh

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 M.H.S.Confdl.No.106/2014, dated 30.12.2014 by the detaining authority, who has been arrayed as second respondent herein against the detenu by name Murugan @ Vice Murugan, Son of Esakki Thevar and quash the same and thereby set him at liberty forthwith.

2. The Inspector of Police, Moontradaippu 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.128 of 2012 Moontradaippu Police Station registered under Sections 302 and 201 of the Indian Penal Code.

<https://hcservices.ecourts.gov.in/hcservices/>

(ii) Crime No.286 of 2013 Kalakad Police Station registered under Sections 147, 148, 448, 294(b) and 506(ii) of



the Indian Penal Code and also under Section 3 of Tamil Nadu Public Property (Prevention of Damage and Loss) Act.

(iii) Crime No.287 of 2013 Kalakad Police Station registered under Sections 147, 148, 448, 294(b), 436 and 506 (ii) of the Indian Penal Code and also under Section 4 of Tamil Nadu Public Property (Prevention of Damage and Loss) Act.

(iv) Crime No.288 of 2013 Kalakad Police Station registered under Sections 147, 148, 448, 435 and 506(ii) of the Indian Penal Code and also under Section 4 of Tamil Nadu Public Property (Prevention of Damage and Loss) Act.

(v) Crime No.289 of 2013 Kalakad Police Station registered under Sections 147, 148, 448, 435 and 506(ii) of the Indian Penal Code and also under Sections 3 and 4 of Tamil Nadu Public Property (Prevention of Damage and Loss) Act.

(vi) Crime No.147 of 2013 Moontradaippu Police Station registered under Section 302 of the Indian Penal Code.

(vii) Crime No.29 of 2014 Moontradaippu Police Station registered under Section 387 of the Indian Penal Code.

(viii) Crime No.155 of 2014 Moontradaippu Police Station registered under Sections 147, 148 and 302 of the Indian Penal Code altered into Sections 147, 148, 149, 341, 302, 120(b) and 212 of the Indian Penal Code.

3. Further it is stated in the affidavit that on 12.11.2014 one Paulpandi as defacto complainant has given a complaint in Moontradaippu Police Station against the detenu and others and the same has been registered in Crime No.157 of 2014 under Sections 147, 148, 341, 302 and 201 of the Indian Penal Code altered into Sections 147, 148, 341, 302, 201, 212 read with 120(b) 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 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 father of the detenu 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 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.

7. The learned Additional Public Prosecutor has represented that the representation submitted on the side of the detenu has been duly considered and disposed of without delay and therefore the detention order in question need not be quashed.



8. On the side of the respondents, a proforma has been submitted wherein it has been clearly stated that in between Column Nos.7 to 9, eight clear working days are available and in between Column Nos.12 and 13, twelve clear working days are available and no explanation has been given on the side of the respondents with regard to inordinate delay in disposing of the representation submitted on the side of the detenu and that itself would affect the 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 passed in M.H.S.Confdl.No.106/2014, dated 30.12.2014 by the second respondent/detaining authority is quashed and consequently the respondents are directed to set the detenu viz., Murugan @ Vice Murugan, Son of Esakki Thevar at liberty forthwith, unless he is required to be incarcerated in connection with any other case.

Sd/-

Assistant Registrar(CO)

/TRUE COPY/

Sub Assistant Registrar

To

1.The Secretary to the Government,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai - 9.

2.The District Collector and
District Magistrate,
Tirunelveli District.

3.The Superintendent,
Central Prison, Palayamkottai
(in duplicate to communicate the detenu)

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.D.Venkatesh, Advocate, SR.No.22774

ORDER MADE IN
H.C.P (MD) No.158 of 2015
27.04.2015

ps

PA/29.04.2015/3P/8C