



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 22.06.2015

CORAM:

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

HABEAS CORPUS PETITION(MD)No.162 of 2015

M.Manoj Kumar

.. Petitioner

Vs.

1.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Fort St. George,
Chennai - 600 009.

2.The District Collector and
District Magistrate,
Office of the District Collector and
District Magistrate,
Ramanathapuram District.

3.The Superintendent of Prison,
Madurai Central Prison,
Madurai 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 entire records connected with the detention order of the respondent No.2 in No.02/S.O/2015, dated 04.02.2015 and quash the same and direct the respondents to produce the body and person of the detenu namely Senthooran, Son of Muthukannu Thevar, aged 40 years detained in Madurai Central Prison before this Court and set him at liberty forthwith and pass such further or other orders.

For Petitioner : Mr.R.Alagumani

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 No.02/S.O/2015, dated 04.02.2015 by the detaining authority, who has been arrayed as second respondent ~~service in courts against the~~ the detenu by name Senthooran, Son of Muthukannu Thevar and quash the same and thereby set him at liberty forthwith.



2. The Special Sub-Inspector of Police, Kamuthi 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.23 of 2012 Kovilankulam Police Station registered under Sections 147, 148, 341, 324 and 506(ii) of the Indian Penal Code.

(ii) Crime No.134 of 2014 Kamuthi Police Station registered under Sections 379(NH), 353 and 506(ii) of the Indian Penal Code.

(iii) Crime No.187 of 2014 Kamuthi Police Station registered under Sections 341, 294(b), 324 and 506(ii) of the Indian Penal Code.

3. Further it is stated in the affidavit that on 27.01.2015, the Special Sub-Inspector of Police and others attached to Kamuthi Police Station have made vehicle check up and ultimately found that the detenu is in possession of sand without licence and consequently, a case has been registered in Crime No.23 of 2015 under Sections 294(b), 353, 379 and 307 of the Indian Penal Code and ultimately requested the detaining authority to invoke Act 14 of 1982 against the detenu.

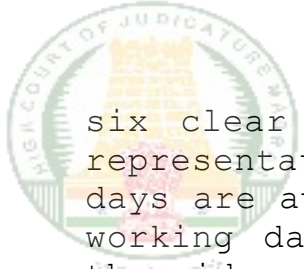
4. The detaining authority, after considering the averments made in the affidavit and other connected documents, has derived subjective satisfaction to the effect that the detenu is a habitual offender and ultimately branded him as 'Sand Offender' by way of passing the impugned detention order and in order to quash the same, the present Habeas Corpus Petition has been filed by the 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 two 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 the representations submitted on the side of the detenu are duly considered and 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 in which it has been clearly stated that with regard to first representation in between Column Nos.7 to 9, eight clear working days are available and in between Column Nos.12 and 13,



six clear working days are available and with regard to second representation in between Column Nos.7 to 9, nine clear working days are available and in between Column Nos.12 and 13, five 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 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 No.02/S.O/2015, dated 04.02.2015 by the second respondent/detaining authority is quashed and consequently the respondents are directed to set the detenu viz., Senthooran, Son of Muthukannu 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

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To

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Fort St. George, Chennai - 600 009.
- 2.The District Collector and District Magistrate,
Office of the District Collector and District Magistrate,
Ramanathapuram District.
- 3.The Superintendent of Prison,
Madurai Central Prison, Madurai District.
(In duplicate to communicate the detenu)
- 4.The Joint secretary to Government,
Public (Law & Order) Fort, St., George, Chennai-9
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to MR.R.ALAGUMANI, ADVOCATE IN SR NO.32839

ORDER MADE IN

H.C.P(MD)No.162 of 2015

22.06.2015

RG.23.06.2015

3P/8C.