



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.164 of 2015

V.Mani @ Vetrilai Manikandan .. Petitioner

Vs.

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

2.The Commissioner of Police,
O/o.Commissioner of Police,
A.R.Line Road, Koripallam,
Palayamkottai, Tirunelveli City... 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 impugned order of detention made in No.4/BCDFGISSSV/2015, dated 13.01.2015 on the file of the Commissioner of Police, Tirunelveli city, the second respondent herein, branding the detenu by name V.Mani @ Vetrilai Manikandan, aged about 30 years, Son of Velmurugan as 'Goonda', who is now confined in Central Prison, Palayamkottai and quash the impugned order of detention by setting aside the same and set him at liberty forthwith and pass such further or other orders.

For Petitioner Mr.A.Thiruvadi Kumar

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.4/BCDFGISSSV/2015, dated 13.01.2015 by the detaining authority, who has been arrayed as second respondent herein against the detenu by name V.Mani @ Vetrilai Manikandan, Son of Velmurugan and quash the same and thereby set him at liberty forthwith.

2. The Inspector of Police, Tirunelveli Town 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.549 of 2013 Tirunelveli Town Police Station registered under Sections 294(b), 323, 506(ii) of the Indian Penal Code and also under Section 3 of Tamil Nadu Property (Prevention of Damage and Loss) Act and also under Section 4 of Tamil Nadu Prohibition of Harrassment of Women Act, 1998 altered into Sections 294(b), 352 and 506(i) of the Indian Penal Code and also under Section 3 of Tamil Nadu Property (Prevention of Damage and Loss) Act and also under Section 4 of Tamil Nadu Prohibition of Harrassment of Women Act, 1998.

(ii) Crime No.96 of 2014 Suthamalli Police Station registered under Sections 294(b), 324, 307, 506(ii) of the Indian Penal Code read with Section 120(b) of the Indian Penal Code altered into Sections 294(b), 324, 307, 506(ii) of the Indian Penal Code read with 120(b) and 34 of the Indian Penal Code.

(iii) Crime No.574 of 2014 Tirunelveli Town Police Station registered under Sections 147, 148, 120(b), 341, 294(b), 302 and 506(ii) of the Indian Penal Code altered into Sections 147, 148, 120(b), 341, 294(b), 302 and 506(ii) of the Indian Penal Code read with Section 34 of the Indian Penal Code.

3. Further it is stated in the affidavit that on 14.12.2014 one Dharmar as defacto complainant has given a complaint in Tirunelveli Town Police Station against the detenu and the same has been registered in Crime No.915 of 2014 under Sections 341, 294(b), 307 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 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 detenu himself 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 the detaining authority has relied upon the bail order passed by the Principal District and Sessions Court, Tirunelveli Town in Cr.M.P.No.2145/2014, dated 30.04.2014 and in fact, the circumstances mentioned therein are not similar to that of the factual circumstances to the given case and that itself would be sufficient for quashing the detention order.

7. The learned Additional Public Prosecutor has contended that the detaining authority has rightly relied upon the order passed in Cr.M.P.No.2145/2014 as similar case particular and therefore, the detention order in question does not call for any interference.



8. In the detention order, in paragraph No.6, it has been clearly stated that in a similar case, bail has been granted as per order passed in Cr.M.P.No.2145/2014 by the Principal District and Sessions Court, Tirunelveli Town.

9. As stated earlier, against the detenu three adverse cases are pending apart from ground case whereas in the order passed in Cr.M.P.No.2145 of 2014, it has been simply mentioned that the injured/defacto complainant has abruptly left as absconded and no particulars have been mentioned with regard to bad antecedent of the petitioner therein. In the instant case, three adverse cases are pending against the petitioner/detenu and since no mention has been made with regard to bad antecedents in the bail order relied upon by the detaining authority, it is needless to say that the detaining authority has not applied his mind and that itself would be a ground for quashing the detention order in question and therefore the detention order in question is liable to be quashed.

10. In fine, this Habeas Corpus Petition is allowed and the detention order passed in No.4/BCDFGISSSV/2015, dated 13.01.2015 by the second respondent/detaining authority is quashed and consequently the respondents are directed to set the detenu viz., Mani @ Vetrilai Manikandan, Son of Velmurugan 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 PRINCIPAL SECRETARY TO GOVERNMENT, HOME, PROHIBITION & EXCISE DEPARTMENT, CHENNAI.
2. THE COMMISSIONER OF POLICE O/O. COMMISSIONER OF POLICE, A.R.LINE ROAD, KORIPALLAM, PALAYAMKOTTAI, TIRUNELVELI CITY.
3. THE SUPERINTENDENT, CENTRAL PRISON, PALAYAMKOTTAI
(IN DUPLICATE TO COMMUNICATE THE DETENUE)
4. THE JOINT SECRETARY TO GOVT. OF TAMIL NADU PUBLIC(LAW & ORDER) FORT. GEORGE, CHENNAI-9
5. THE ADDITIONAL PUBLIC PROSECUTOR, MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1cc to MR.A.THIRUVADIKUMAR, ADVOCATE SR.NO.22275

ORDER MADE IN
H.C.P(MD)No.164 of 2015
27.04.2015