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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 08.06.2015

Coram

THE HONOURABLE MR.JUSTICE A.SELVAM

and

THE HONOURABLE MR.JUSTICE V.S.RAVI

H.C.P.(MD)No.166 of 2015

M.Lakshmi

..Petitioner

Vs.

1.The District Collector & District Magistrate,
Tirunelveli District, Tirunelveli.

2.The Secretary to Government,
Tamilnadu Cooperation,
Food and Consumer Protection Department,
Secretariat, Chennai - 9.

3.The State rep.by
Inspector of Police,
Civil Supplies Criminal Investigation Department,
Tirunelveli, Tirunelveli 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 records of the 1st respondent passed in his proceedings No.MHS/Confdl.No.11/2015 dated 31.01.2015 and quash the same and set the detenu namely E.Murugan S/o.Essakithevar aged about 34 years, now confined at Central Prison, Palayamkottai at liberty.

For Petitioner : Mr.B.Prahalad 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 MHS/Confdl.No.11/2015 dated 31.01.2015 by the detaining authority who has been arrayed as first respondent herein against the detenu by name Murugan S/o.Essakithevar and quash the same and thereby set him at liberty forthwith.

2. The Inspector of Police, Tirunelveli Civil Supply CID Unit as sponsoring authority has submitted an affidavit to the detaining authority, wherein it is stated that the detenu has already involved in the following adverse case:

(i)Crime No.222 of 2014, Tirunelveli Civil Supplies Criminal Investigation Department, registered under Sections 6(4) of Tamilnadu Scheduled Commodities (Regulation of Imports and Exports) Act, 1955 (by Card System) Order 1982 and r/w Section 7(1) (a) (ii) of the Essential Commodities Act, 1955.



(ii) Crime No.202 of 2014, Thoothukudi Civil Supplies Criminal Investigation Department, registered under Sections 6(4) of Tamilnadu Scheduled Commodities (Regulation of Distribution by Card System) Order 1982 and r/w Section 7(1)(a)(ii) of the Essential Commodities Act, 1955.

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3. Further it is stated in the affidavit that on 23.01.2015, the concerned Wing has searched the vehicle bearing Registration No.TN-72-AB-5748 and ultimately found 33 bags of PDS rice each weighing 50 kilograms and a case has been registered in Crime No.15 of 2015 under Sections 6(4) of Tamilnadu Scheduled Commodities (Regulation of Distribution by Card System) Order 1982 and r/w Section 7(1)(a)(ii) of the Essential Commodities Act, 1955 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 'black marketeer' 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 wife 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 contended that the representation submitted on the side of the detenu has 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 in between column Nos.7 to 9, 11 clear working days are available and no explanation has been given on the side of the respondents with regard to such delay in disposing of the representation submitted on the side of the detenu and that itself would affect his rights 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 31.01.2015 passed in MHS/Confdl.No.11/2015 by the detaining authority/first respondent herein is quashed and the detenu by name Murugan is ordered to be set at liberty forthwith, unless he is required to be incarcerated in any other case.

Sd/-

Assistant Registrar(T&P)

/True copy/



To

- 1.The Secretary to Government,
Tamilnadu Cooperation,
Food and Consumer Protection Department,
Secretariat, Chennai - 9.
- 2.The Joint Secretary to Government.,
Public (Law & Order), Secretariat,
Fort St.George, Chennai-9.
- 3.The District Collector & District Magistrate,
Tirunelveli District, Tirunelveli.
- 4.The Inspector General of Police, (Intelligence),
Chennai.
5. The Superintendent,Central Prison, Palayamkottai.
- 6.The Inspector of Police,
Civil Supplies Criminal Investigation Department,
Tirunelveli, Tirunelveli District.
- 7.The Addl.Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

H.C.P. (MD) No.166 of 2015
08.06.2015

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PBK/KBM 11/06/2015 ::3P-8C::