



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 12.06.2015

Coram

THE HONOURABLE MR.JUSTICE A.SELVAM

and

THE HONOURABLE MR.JUSTICE V.S.RAVI

H.C.P.(MD)No.175 of 2015

S.Selviammal

.. Petitioner

Vs.

1.The State of Tamilnadu,
rep.by Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.

2.The District Collector & District Magistrate,
O/o. District Collector & District Magistrate,
Tirunelveli District, Tirunelveli.

3.The Inspector of Police,
Moontradaippu Police Station,
Moontradaippu,
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 the entire records connected with the detention order of the respondent No.2 in M.H.S.Confdl.No.108/2014 dated 30.12.2014 and to quash the same and direct the respondents to produce the detenu namely Esakkipandi, aged 23 years, S/o.Sudalaikannu, detained at Central Prison, Palayamkottai before this Court and set him at liberty.

For Petitioner : Mr.S.R.A.Ramachanran

For Respondents : Mr.T.Mohan

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 M.H.S.Confdl.No.108/2014 dated 30.12.2014 by the detaining authority who has been arrayed as respondent herein against the detenu by name Esakkipandi, S/o.Sudalaikannu 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.

(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 Tamilnadu 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 Tamilnadu Public Property (Prevention of Damage and Loss) Act.

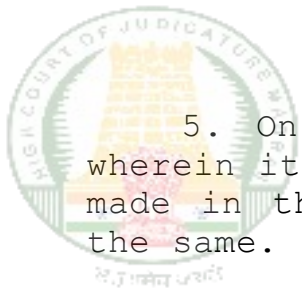
(iv) Crime No.288 of 2013, Kalakad Police Station, registered under Sections 147, 148, 448, 435 and 506 (ii) of the Indian Penal Code and also under Section 4 of Tamilnadu Public Property (Prevention of Damage and Loss) Act.

(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 4, 3 of Tamilnadu Public Property (Prevention of Damage and Loss) Act.

(vi) Crime No.155 of 2014, Moontradaippu Police Station, registered under Sections 147, 148, 302 of the Indian Penal Code altered to 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 against the detenu and others in Moontradaippu Police Station 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 and 212 r/w 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 mother of the detenu has filed the present Habeas Corpus



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 four 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 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, wherein it has been clearly stated that with regard to first representation in between column Nos.7 to 9, 2 clear working days are available and in between column Nos.12 to 13, 13 clear working days are available; with regard to second representation in between column Nos.12 to 13, 13 clear working days are available; with regard to third representation in between column Nos.12 to 13, 9 clear working days are available and with regard to fourth representation in between column Nos.12 to 13, 9 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 representations 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 30.12.2014 passed in M.H.S.Confdl.No.108/2014 by the detaining authority/second respondent herein is quashed and the detenu by name Esakkipandi is ordered to be set at liberty forthwith, unless he is required to be incarcerated in any other case.

Sd/-

Assistant Registrar(AE)

/True copy/

Sub Assistant Registrar

To

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



2.The Joint Secretary to Government,
Public (Law & Order),
Fort St., George, Chennai-9

3.The District Collector & District Magistrate,
O/o. District Collector & District Magistrate,
Tirunelveli District, Tirunelveli.

4.The Superintendent, Central Prison,
Palayamkottai.
(In Duplicate for communication to detenu)

5.The Inspector of Police,
Moontradaippu Police Station,
Moontradaippu,
Tirunelveli District.

6.The Addl.Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to M/s.S.R.A.Ramachandharan,Advocate in Sr NO.30053

H.C.P. (MD) No.175 of 2015
12.06.2015

rg.17.06.2015

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