



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 30.06.2015

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

H.C.P. (MD) No.190 of 2015

V.Selvi

.. Petitioner

Vs.

1.The Secretary to Government,
State of Tamilnadu,
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 praying to call for the records relating to the Detention Order passed by the 2nd Respondent in M.H.S.Confdl.No.109/2014 dated 30/12/2014 and to quash the same and direct the Respondents to produce the person of the detenu namely Vanuvamalai alias Korali Vanuvamalai, aged 27 years S/o.Krishna Thevar alias Chinna Thevar before this Court, now detained at Central Prison Palayamkottai and set him at liberty.

For Petitioner : Mr.S.R.A.Ramachandran
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 M.H.S.Confdl.No.109/2014 dated 30/12/2014 by the detaining authority who has been arrayed as second respondent herein against the detenu by name Vanuvamalai alias Korali Vanuvamalai, S/o.Krishna Thevar alias Chinna 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.147 of 2013, Moontradaippu Police Station, registered under Section 302 of the Indian Penal Code.

(ii) 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 has given a complaint to the Inspector of Police, 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 to Sections 147, 148, 341, 302, 201, 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.

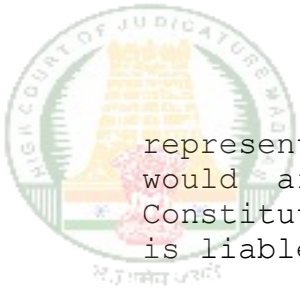
4. The detaining authority after perusing the averments made in the affidavit and other connected documents has derived subjective satisfaction to the effect that the detenu is a 'habitual offender' and ultimately branded him as 'goonda' by way of passing the impugned detention order and in order to quash the same, the present Habeas Corpus Petition has been filed by the 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 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 all 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 and 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.7 to 9, 2 clear working days are available and in between column Nos.12 to 13, 11 clear working days are available and with regard to fourth representation in between column Nos.12 to 13, 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



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.109/2014 by the detaining authority/second respondent herein is quashed and the detenu by name Vanuvamalai alias Korali Vanuvamalai 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\\

Sub Assistant Registrar

To

- 1.The Secretary to Government,
State of Tamilnadu,
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 Superintendent,
Central Prison, Palayamkottai.
4. The Joint Secretary to Government,
Public (Law and Order), Fort St.George, Chennai -9.
- 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 Mr.S.R.A.Ramachandran, Advocate Sr.No.34822

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