



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
Dated : 29.06.2015

Coram

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

H.C.P.(MD)No.186 of 2015

Nagaraj

.. Petitioner

Vs.

- 1.The Principal Secretary to Government,
State of Tamilnadu,
Home, Prohibition and Excise (ix)Department,
Secretariat, Chennai - 600 009.
- 2.The District Collector and District Magistrate,
O/o.District Collector and District Magistrate,
Theni district.
- 3.The Superintendent of Prison,
Madurai Central Prison,
Madurai.

.. 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 No.08/2015 dated 06.02.2015 and quash the same and direct the Respondents to produce the detenu namely Nagaraj S/o.Veerappan, aged about 29 years detained in Madurai Central Prison before this Court and set him at liberty.

For Petitioner : Mr.R.Alagumani
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 No.08/2015 dated 06.02.2015 by the detaining authority who has been arrayed as second respondent herein against the detenu by name Nagaraj



S/o.Veerappan and quash the same and thereby set him at liberty forthwith.

2. The Inspector of Police, Kombai 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.976 of 2010, Thenkarai Police Station, registered under Section 392 of the Indian Penal Code.

(ii) Crime No.978 of 2010, Thenkarai Police Station, registered under Section 392 of the Indian Penal Code.

3. Further it is stated in the affidavit that on 02.01.2015 one Ramasubramani S/o.Ramasamy chettiar as defacto complainant has given a complaint to the Inspector of Police, Kombai police station against the detenu and the same has been initially registered in Crime No.2 of 2015 under Section 397 of the Indian Penal Code and subsequently altered into Sections 397 and 302 of the Indian Penal Code and ultimately requested the detaining authority to invoke Act 14 of 1982 against the detenu.

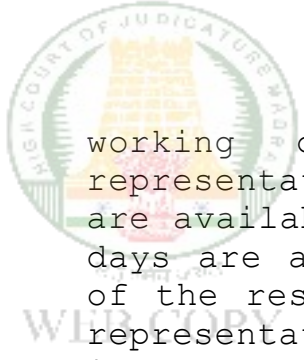
4. The detaining authority after perusing the averments made in the affidavit and other connected documents has derived subjective satisfaction to the effect that the detenu is a 'habitual offender' and ultimately branded him as 'goonda' by way of passing the impugned detention order and in order to quash the same, the present Habeas Corpus Petition has been filed by the 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 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 all the representations submitted on the side of the detenu are duly disposed of without delay and therefore, the detention order in question need not be quashed.

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, 8 clear working days are available and in between column Nos.12 and 13, 5 clear



working days are available and with regard to second representation in between column Nos.7 to 9, 9 clear working days are available and in between column Nos.12 and 13, 5 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 06.02.2015 passed in No.08/2015 by the detaining authority/second respondent herein is quashed and the petitioner/detenu is ordered to be set at liberty forthwith, unless he is required to be incarcerated in any other case.

Sd

ASST REGISTRAR - RTI

TRUE COPY

SUB ASST REGISTRAR

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To

- 1.The Principal Secretary to Government,
State of Tamilnadu,
Home, Prohibition and Excise(ix) Department,
Secretariat, Chennai - 600 009.
- 2.The Joint Secretary, Govt of Tamil Nadu,
Secretariat, Chennai 9
- 3.The District Collector and District Magistrate,
O/o.District Collector and District Magistrate,
Theni district.
- 4.The Director General of Police, Chennai 4
- 5.The Superintendent of Prison,
Madurai Central Prison, Madurai.
- 6.The Addl.Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

1cc to MR. R. ALAGUMANI, ADV SR: 34904

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H.C.P. (MD) No.186 of 2015
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