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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 30.06.2015

Coram

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

H.C.P.(MD)No.188 of 2015

Ramakrishnan

.. 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 & District Magistrate,
O/o.District Collector & District Magistrate,
Virudhunagar 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 praying to call for the entire records connected with the detention order of the Respondent No.2 in Cr M.P.No.01/2015 (GOONDA) dated 05/02/2015 and quash the same and direct the respondents to produce the detenu namely Ramakrishnan S/o.Rengan aged about 30 years detained in Madurai Central Prison before this Court and set him at liberty forthwith.

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 Cr M.P.No.01/2015 (Goonda) dated 05/02/2015 by the detaining authority who has been arrayed as second respondent herein against the detenu by name Ramakrishnan S/o.Rengan and quash the same and thereby set him at liberty forthwith.



2. The Inspector of Police, Amathur 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.336 of 2012, Madurai District, T.Kallupatti Police Station, registered under Section 392 of the Indian Penal Code.

(ii) Crime No.114 of 2013, Madurai District, Karuppaiyurani Police Station, registered under Section 392 of the Indian Penal Code.

(iii) Crime No.582 of 2013, Madurai District, Thirunagar Police Station, registered under Section 392 of the Indian Penal Code.

(iv) Crime No.260 of 2013, Madurai District, T.Kallupatti Police Station, registered under Section 392 of the Indian Penal Code.

(v) Crime No.88 of 2014, Madurai District, Chekkanoorani Police Station, registered under Section 397 of the Indian Penal Code.

(vi) Crime No.89 of 2014, Madurai District, Chekkanoorani Police Station, registered under Section 397 of the Indian Penal Code.

(vii) Crime No.75 of 2014, Amathur Police Station, registered under Sections 454 and 380 of the Indian Penal Code.

(viii) Crime No.134 of 2014, Virudhunagar District, Virudhunagar Rural Police Station, registered under Sections 454 and 380 of the Indian Penal Code.

(ix) Crime No.167 of 2014, Virudhunagar District, Soolakarai Police Station, registered under Sections 454 and 380 of the Indian Penal Code.

(x) Crime No.152 of 2014, Amathur Police Station, registered under Section 394 of the Indian Penal Code.

(xi) Crime No.90 of 2014, Madurai District, Villur Police Station, registered under Sections 397 and 506(ii) of the Indian Penal Code.

3. Further it is stated in the affidavit that on 14.12.2014 one Muthukaruppan as defacto complainant has given a complaint against the detenu in Amathur Police Station and the same has been registered in Crime No.334 of 2014 under Sections 294(b), 342, 392 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 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 petitioner/detenu three 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.

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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, 6 clear working days are available and in between column Nos.12 and 13, 5 clear working days are available; with regard to second representation in between column Nos.7 to 9, 5 clear working days are available and with regard to third representation, in between column Nos.7 to 9, 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 petitioner/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 05.02.2015 passed in Cr M.P.No.01/2015 (GOONDA) 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/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

- 1.The Principal Secretary to Government, State of Tamilnadu,
Home, Prohibition and Excise(IX) Department,
Secretariat, Chennai - 600 009.
- 2.The District Collector & District Magistrate,
O/o.District Collector & District Magistrate, Virudhunagar District.
- 3.The Superintendent of Prison, Madurai Central Prison, Madurai.
- 4 The Joint Secretary, Government of Tamil Nadu,
Public (Law & order) Department, Fort St. George, Chennai.
- 5.The Addl.Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1cc to M/S.R.Alagumani, Advocate in SR.No 35237

TS/02.07.2015/2P -7C