



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 16.06.2015

Coram

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

H.C.P. (MD) No.189 of 2015

S.Chandrasekar

.. Petitioner

Vs.

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

2.The Commissioner of Police,
Trichirapalli City,
Trichirapalli.

.. 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 records relating to the detention order passed by the 2nd respondent in C.No.05/Detention/C.P.O./T.C./2015 dated 10.02.2015 and quash the same and direct the respondents to produce the person or body of the detenu Madhan @ Madhankumar @ Manikandan S/o.S.Chandrasekar aged about 31 years (now detained at Central Prison, Trichirapalli) before this Court and set him at liberty.

For Petitioner : Mr.P.Kamaraj

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 C.No.05/Detention/C.P.O./T.C./2015 dated 10.02.2015 by the detaining authority who has been arrayed as second respondent herein against the detenu by name Madhan @ Madhankumar @ Manikandan, S/o.S.Chandrasekar and quash the same and thereby set him at liberty forthwith.

2. The Inspector of Police, Gandhi Market Police Station, Trichirapalli as sponsoring authority has submitted an affidavit to the <https://hcservices.ecourts.gov.in/hcservices/> detaining authority, wherein it is stated that the detenu has involved in the following adverse cases.



(i) Crime No.331 of 2014, Kumbakonam West Police Station, registered under Sections 302 @ 147, 148, 120(b) and 302 of the Indian Penal Code.

(ii) Crime No.487 of 2014, Edamalaipatti Police Station, registered under Sections 392 r/w 397 of the Indian Penal Code.

(iii) Crime No.443 of 2014, Kumbakonam West Police Station, registered under Sections 294(b), 506(ii), 392 of the Indian Penal Code r/w Section 3 (1) of TN PP(D & L) Act.

3. Further it is stated in the affidavit that on 21.01.2015 at about 10.00 hours one Usain S/o.Syed Razak as defacto complainant has given a complaint against the detenu in Gandhi Market Police Station and the same has been registered in Crime No.64 of 2015 under Sections 392 r/w 397 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 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 present Habeas Corpus Petition has been filed by the father of the detenu as petitioner.

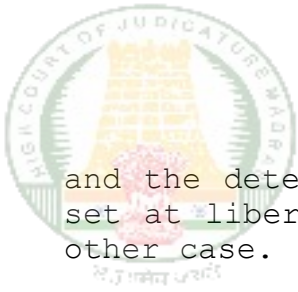
5. On the side of the respondents counter has been filed, wherein it has been contended to the effect that all the averments made in the petition are false and ultimately prayed to dismiss the same.

6. The learned counsel appearing for the petitioner has contended that on the side of the detenu 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 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, 5 clear working days are available and in between column Nos.12 to 13, 6 clear working days are available and with regard to second representation in between column Nos.7 to 9, 4 clear working days are available and in between column Nos.12 to 13, 6 clear working days are available 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 10.02.2015 passed in C.No.05/Detention/C.P.O./1.C.7/2015 by the detaining authority/second respondent herein is quashed



and the detenu by name Madhan @ Madhankumar @ Manikandan is ordered to be set at liberty forthwith, unless he is required to be incarcerated in any other case.

WEB COPY

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

- 1.The Secretary to Government of Tamil Nadu
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.
- 2 The Joint Secretary, Government of Tamil Nadu,
Public (Law & order) Department, Fort St. George, Chennai -9
- 3.The Commissioner of Police,
Trichirapalli City,
Trichirapalli.
- 4 The Superintendent, Central prison, Trichy.
- 5.The Addl.Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to M/S. P.Kamaraj, Advocate in SR.No. 31155.

TS/17.06.2015/3P-7C

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