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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 21.07.2015

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THE HONOURABLE MR.JUSTICE A.SELVAM

and

THE HONOURABLE MR.JUSTICE V.S.RAVI

H.C.P.(MD)No.2 of 2015

Ponnammal

.. Petitioner

Vs.

1.The Secretary to Government,

Home, Prohibition and Excise (XVI) Department,
Fort.St.George, Chennai - 600 009.

2.The District Collector and District Magistrate,
Pudukottai District,
Pudukottai.

.. 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 pertaining to the impugned detention order passed by the 2nd respondent made in his proceedings in P.D.O No.20/2014 dated 25.12.2014 in detaining the detenu u/s 2 (f) of Tamilnadu Act 14 of 1982 as a Goonda and quash the same and direct the respondents to produce the Detenu namely Yuvaraj S/o. Raju male aged about 24 years who is detained in Central Prison, Trichirapalli before this Court and set him at liberty.

For Petitioner : Mr.K.M.Karunakaran

For Respondents : Mr.C.Ramesh

Addl.Public Prosecutor

ORDER

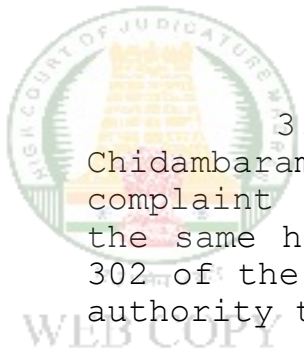
(Order of the Court was made by A.SELVAM, J.)

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 P.D.O No.20/2014 dated 25.12.2014 by the detaining authority who has been arrayed as second respondent herein against the detenu by name Yuvaraj S/o. Raju and quash the same and thereby set him at liberty forthwith.

2. The Inspector of Police, Ponnamaravathi 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 case.

Crime No.96 of 2011, Nangavalli Police Station,

Salem District registered under Sections 392 of the
Indian Penal Code.



3. Further it is stated in the affidavit that on 17.10.2014 Chidambaram S/o.Kannappan as defacto complainant has given a complaint in Ponnamaravathi Police Station against the detenu and the same has been registered in Crime No.228 of 2014 under Section 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 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 mother of the detenu as petitioner.

5. On the side of the respondents a detailed 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 detenu has contended that on the side of the detenu a representation has been submitted and the same has 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 representation submitted on the side of the detenu has been 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 in between column Nos.6 and 7, 8 clear working days are available and in between column Nos.7 to 9, 1 clear working day is available and in between column Nos.12 and 13, 6 clear working days are available and no explanation has been given on the side of the respondents with regard to such inordinate delay in disposing of the representation and that itself would affect the rights of the detenu 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 25.12.2014 passed in P.D.O No.20/2014 by the detaining authority/second respondent herein is quashed and the detenu by name Yuvaraj is ordered to be set at liberty forthwith, unless he is required to be incarcerated in any other case.

Sd/-

Assistant Registrar(Crl.Side)

/True copy/



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To

- 1.The Secretary to Government,
Home, Prohibition and Excise (XVI) Department,
Fort.St.George, Chennai - 600 009.
- 2.The District Collector and District Magistrate,
Pudukottai District, Pudukottai.
- 3.The Superintendent Central Prison,Tiruchirappalli.
(With Copies to Communicate to the dsetenu)
- 4.The Joint Secretary to Government
Public Law & Order Fort St George, Chennai-9
- 5.The Addl.Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

H.C.P. (MD) No.2 of 2015
21.07.2015

RG.24.07.2015 3P.7C.