



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 08.06.2015

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THE HONOURABLE MR.JUSTICE A.SELVAM

and

THE HONOURABLE MR.JUSTICE V.S.RAVI

H.C.P.(MD)No.205 of 2015

Vinothini

..Petitioner

Vs.

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

2.The District Collector & District Magistrate,
Nagapattinam District, Nagapattinam.

3.The Superintendent
Central Prison, 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 records from 2nd respondent pertaining to the detention order made in C.O.C.No.13/2015 dated 12.02.2015 in detaining the detenu under TamilNadu Act 14/1982 as goonda and quash the same and direct the respondents to produce the detenu namely Selvam aged about 28 years S/o.Kuppamuthu who is detained at Central Prison, Trichirapalli before this Court and set him at liberty.

For Petitioner : Mr.V.Malaiyendran

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.O.C.No.13/2015 dated 12.02.2015 by the detaining authority who has been arrayed as second respondent herein against the detenu by name Selvam, S/o.Kuppamuthu and quash the same and thereby set him at liberty forthwith.

2. The Inspector of Police, Keelaiyur 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.323 of 2012, Nagapattinam Town Police Station, registered under Sections 457 and 380 of the Indian Penal Code.

<https://hcservices.ecourts.gov.in/hcservices/> Crime No.384 of 2012, Nagapattinam Town Police Station, registered under Sections 457 and 380 of the Indian Penal Code.



3. Further it is stated in the affidavit that on 04.02.2015 one Kannan as defacto complainant has lodged a complaint against the detenu in Keelaiyur Police Station and the same has been registered in Crime No.50 of 2015 under Sections 294(b), 386 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 'professional 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 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.7 to 9, 12 clear working days are available and in between column Nos.12 to 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 representation 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 12.02.01.2015 passed in C.O.C.No.13/2015 by the detaining authority/second respondent herein is quashed and the detenu by name Selvam 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.Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.



2.The Joint Secretary to Government.,
Public (Law & Order) State of Tamilnadu,
Secretariat, Fort St.George, Chennai-9.

3.The District Collector & District Magistrate,
Nagapattinam District, Nagapattinam.

4.The Superintendent
Central Prison, Trichirapalli.

5.The Superintendent, District Jail, Nagapattinam.

6.The Addl.Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

H.C.P. (MD) No.205 of 2015
08.06.2015

mj

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