



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 22.04.2015

CORAM:

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

HABEAS CORPUS PETITION (MD) No.217 of 2015

K.Kiruthika

.. Petitioner

Vs.

1.The District Collector and
District Magistrate,
Karur District, Karur - 639 007.

2.The State rep. By
The Principal Secretary to the Government,
Home, Prohibition and Excise Department,
Fort St. George, Chennai - 600 009.

3.The Inspector of Police,
Pasupathipalayam Police Station,
Karur - 639 004.

.. Respondents

Prayer:- Habeas Corpus Petition is filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus directing the respondents herein to produce the detenu Guberan, Son of Vaiyapuri, aged 34 years, who has been termed as 'Goonda', who is now confined in Central Prison, Tiruchirappalli and call for records in Cr.M.P.No.01/2015, dated 25.01.2015 passed by the first respondent herein and set aside the same and the detenu, husband of the petitioner at liberty.

For Petitioner : Mr.E.K.Kumaresan

For Respondents : Mr.C.Ramesh
Additional 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 detention order passed in Cr.M.P.No.01/2015, dated 25.01.2015 by the detaining authority, who has been arrayed as first respondent herein against the detenu by name Guberan, Son of Vaiyapuri and quash the same and thereby set him at liberty forthwith.

2. The Inspector of Police, Pasupathipalayam Police Station as sponsoring authority has submitted an affidavit to the detaining authority, wherein it is stated that on 17.12.2014, the defacto complainant by name Kalaiselvi has given a complaint to the concerned Sub-Inspector of Police attached to Pasupathipalayam Police Station and the same has been registered in Crime No.866 of 2014 under Section 3 read



with 4 of Tamil Nadu Prohibition of Charging Exorbitant Interest Act, 2003 and also under Section 506(i) of the Indian Penal Code and ultimately requested the detaining authority to invoke Act 14 of 1982 against the detenu.

3. 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 has demanded exorbitant interest 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.

4. Despite of repeated adjournments on the side of the respondents, counter has not been filed. Under the said circumstances, this Habeas Corpus Petition is disposed of on merits on the basis of available materials.

5. The learned counsel appearing for the petitioner has contended that on the side of the detenu, a representation has been sent on 05.02.2015 and the same has been reached to the Government on 09.02.2015, but the same has been disposed of on 09.03.2015. Under the said circumstances, the detention order in question is liable to be quashed.

6. It is seen from the rejection order passed by the Government that the representation, dated 05.02.2015 has reached the Government on 09.02.2015, but after a lapse of one month, it has been disposed of and therefore, it goes without saying that there is an enormous delay in disposing of the representation submitted on the side of the detenu 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.

7. In fine, this Habeas Corpus Petition is allowed and the detention order passed in Cr.M.P.No.01/2015, dated 25.01.2015 by the first respondent/detaining authority is quashed and consequently the respondents are directed to set the detenu viz., Guberan, Son of Vaiyapuri at liberty forthwith, unless he is required to be incarcerated in connection with any other case.

Sd/-

Assistant Registrar(RTI)

/True copy/

Sub Assistant Registrar

ps

To

1.The District Collector and District Magistrate,
Karur District, Karur - 639 007.

2.The Principal Secretary to the Government,
Home, Prohibition and Excise Department,
Fort St. George, Chennai - 600 009.



3.The Inspector of Police,
Pasupathipalayam Police Station,
Karur - 639 004.

4.The Superintendent Central Prison, Trichy.

5.The Joint Secretary to Government,
Public (Law & Order) Fort St George, Chennai-9

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

+1cc to MR.EK.KUMARESAN,ADVOCATE IN SR NO.21243

ORDER MADE IN
H.C.P (MD) No.217 of 2015
22.04.2015

rg.24.04.2015 3p/8c.