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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 30.06.2015

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THE HONOURABLE MR.JUSTICE A.SELVAM

and

THE HONOURABLE MR.JUSTICE V.S.RAVI

H.C.P. (MD) No.219 of 2015

Maragatham

.. Petitioner

Vs.

1.The District Collector & District Magistrate,
Perambalur District, Perambalur.

2.The Secretary to Government,
State of Tamilnadu,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.

3.The Inspector of Police,
Mangalamedu Police Station,
Perambalur.

.. 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 records in Cr.M.P. No. 03/2015 dated 30.01.2015 and issue a writ order or direction more particularly in the nature of Writ of Habeas Corpus Petition or any order or direction directing the respondents herein to produce the detenu Murthy @ Velu S/o.Kalimuthu aged 31 years herein who has been termed as Goonda and now confined in Central Prison, Trichirapalli herein and set aside the same and set the detenu at liberty.

For Petitioner : Mr.T.Senthilkumar

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. 03/2015 dated 30.01.2015 by the detaining authority who has been arrayed as first respondent herein against the detenu by name Murthy @ Velu S/o.Kalimuthu and quash the same and thereby set him at liberty forthwith.

2. The Inspector of Police, Mangalamedu 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.721 of 2014, Perambalur Police Station,

<https://hcservices.ecourts.gov.in/hcservices/> registered under Section 392 of the Indian Penal Code.

(ii)Crime No.746 of 2014, Perambalur Police Station,
registered under Section 392 of the Indian Penal Code.



(iii) Crime No.438 of 2014, Perambalur, Mangalamedu Police Station, registered under Section 379 of the Indian Penal Code.

(iv) Crime No.461 of 2014, Perambalur, Mangalamedu Police Station, registered under Section 392 of the Indian Penal Code.

(v) Crime No.463 of 2014, Perambalur, Mangalamedu Police Station, registered under Section 392 of the Indian Penal Code.

3. Further it is stated in the affidavit that on 26.12.2014 one Manikandan as defacto complainant has given a complaint to the Inspector of Police, Mangalamedu Police Station against the detenu and the same has been registered in Crime No.464 of 2014 under Sections 392 r/w 397 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 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 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, 14 clear working days are available and in between column Nos.12 and 13, 5 clear working days are available and with regard to second representation in between column Nos.7 to 9, 15 clear working days are available and in between column Nos.12 to 13, 4 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 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 30.01.2015 passed in Cr.M.P. No.03/2015 by the detaining authority/first respondent herein is quashed and the detenu by



name Murthy @ Velu is ordered to be set at liberty forthwith, unless he is required to be incarcerated in any other case.

Sd/-

Assistant Registrar (T&P)

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/True copy/

Sub Assistant Registrar

To

1. The District Collector & District Magistrate,
Perambalur District, Perambalur.
2. The Secretary to Government,
State of Tamilnadu,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.
3. The Inspector of Police,
Mangalamedu Police Station, Perambalur.
4. The Joint Secretary to Govt. of Tamilnadu,
Public (Law & Order) Dept.,
Fort. St. George, Chennai - 9.
5. The Superintendent, Central Prison,
Trichy.
6. The Addl. Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr. T. Senthil Kumar, Advocate SR.No.34713

H.C.P. (MD) No.219 of 2015
30.06.2015

mj

PA/SJW/02.07.2015/3P/8C